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THE

STATUTORY POWERS OF HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE WAR DEPARTMENT.

ORDNANCE BRANCH.

Selected and Arranged

BY

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TABLE OF CONTENTS.

A.—SECRETARY OF STATE FOR THE WAR DEPARTMENT.

I. AS TO LANDS AND CONTRACTS.

PAGE.

1. As the successor of the late Board of Ordnance 3

(a.) The Powers thereof transferred 3

Powers, &c., vested in the Principal Officers of the Ordnance to be transferred to Her Majesty's Secretary of State for the War Department 3

(b.) The Contracts and Rights thereof transferred 4

Contracts, &c., made by the Principal Officers relating to the Public Service to be enforced by such Secretary of State 4

(c.) Certain Lands held in Trust for the Crown transferred 4

Lands, &c., purchased for the service of the Ordnance, and all buildings, &c., thereon, vested in the Principal Officers 4

All lands, &c., vested in such Officers, vested in the said Secretary of State 5

(d.) Lands excepted from the operation of Sec. 5 of the Defence Act, 1842 6

(1.) Those belonging to the hereditary possessions of the Crown or Duchy of Lancaster 6

Act not to vest property belonging to Her Majesty in the Officers of the Ordnance 6

(2.) Lands in charge of the Office of Woods 7

Nothing in this Act to repeal or alter 10 Geo. IV., cap. 50, or 2 & 3 Will. IV., cap. 1 7

(3.) Lands belonging to the Duchy of Cornwall 8

Act not to vest any property belonging to the Prince of Wales in the Officers of the Ordnance 8

As to the Acquisition, &c., of Lands and Works .. 10

(a.) To be vested in the Principal Secretary 10

Lands to be hereafter taken, &c., to be vested in the same manner .. 10

(b.) As to contracts and conveyances 10

Such Secretary of State to be described in conveyances, &c., as Her Majesty's Principal Secretary of State for the War Department .. 10

(c.) A statutory form of conveyance may be used 11

Conveyances to the Secretary of State for War of land in England and Ireland, as in the form "A" in the Appendix hereto .. 11

Conveyances to the Secretary of State for War of land in Scotland, as in the form "B" in the Appendix hereto 11

(d.) As to the vesting of leaseholds 12

Terms assigned to attend the inheritance of lands, &c., holden for the Ordnance to remain in same trustees on same terms .. 12

(e.) As to the vesting of copyholds 12

On the death of any person now holding copyholds, &c., for the Ordnance, the Secretary to be admitted on payment of customary fines, &c. 12

PAGE

(*f.*) As to the enrolment of title deeds 13
For enrolment of deeds relating to lands, &c., in England and Wales 13
Deeds not required to be acknowledged, &c. 13
Office copies of enrolments of such deeds, &c., admissible in evidence 14
(*g.*) As to the purchase of lands by agreement 14
Principal Secretary may authorize persons to survey and mark out lands, and treat with owners for the absolute purchase thereof .. 14
Principal Secretary may purchase lands, &c., and take leases on behalf of the Crown 15
Power given to bodies politic and others to treat 15
Bodies politic may agree for the sale of lands, &c. 17
(*h.*) The Duchy of Lancaster Lands 17
Dealings with lands of the Duchy of Lancaster for the purposes of the Act 17
(*i.*) Sites for Batteries on Piers and Harbours 17
Power to Secretary of State for War to take and hold land, &c., or batteries, &c. 17
(*j.*) Militia Barracks and Storehouses 18
Power for counties and boroughs to transfer buildings or land to Secretary of State 18
(*k.*) As to the Purchase of Land otherwise than by Agreement 18
In default of treating, or where the parties do not agree, the persons authorized by Her Majesty may require two Justices, &c., to put Her Majesty's Officers in possession 18
Barrack sites 20
Jury to be summoned to value the premises 21
Jury may ascertain the proportion to be paid out of compensation for land to lessees, &c. 22
Court to require the party to give security for costs 23
Lands not to be taken for the defence of the realm without consent of the owners, unless in certain cases 23
How notices to be given.. 23
How compensation to be settled in case of neglect to treat.. .. 24
Provision where compensation claimed is under 200*l.* 24
Compensation to absent parties to be settled by a surveyor to be appointed by two justices 24
Surveyor acting corruptly to be guilty of a misdemeanour.. .. 24
Valuation to be preserved and produced on demand.. 24
Power to Secretary for War to use the powers given to promoters of undertakings by 8 and 9 Vict., cap. 18 25
(*l.*) As to the Payment of Purchase-money to the Court of Chancery .. 25
Purchase-money payable to bodies politic, &c., how to be invested 25
Court of Chancery to make order for the investment of such purchase-money 26
Investment of purchase-money when less than 200*l.* 26
Investment of purchase-money when less than 20*l.* 27
Persons in possession deemed entitled to the property until contrary shall be shown.. 27
Provision for payment and application of compensation money in certain cases 27
On payment into Court of compensation, an addition to be made to meet future expenses 28
Provision for payment into Court on failure for three months after compensation ascertained to deduce a title 28
Orders concerning money paid into Court may be made at Chambers 28

PAGE

(m.) Subsequent Compensation and Interests omitted to be Purchased .. 29
Provision as to interests omitted to be purchased 29
How value of such lands to be estimated 29
Secretary of State to pay the costs of litigation as to such lands .. 29

(n.) As to the Extinguishment of Rights of Common.. 30
Principal Secretary may avail himself of certain powers contained in 8 and 9 Vict., cap. 18, as to extinguishing rights of common, &c. 30
Power of valuer appointed under Inclosure Act to cease on purchase of common rights by War Department 30
Purchase may be made although Inclosure Proceedings pending .. 30
Compensation for common lands, where held of a manor, &c., how to be paid 31
Lord of the Manor, &c., to convey to the promoters of the undertaking, on receiving compensation for his interest 31
Compensation for common lands not held of a manor, how to be ascertained 31
A meeting of the parties interested to be convened 31
Meeting to appoint a committee 32
Committee to agree with the promoters of the undertaking.. .. 32
Disputes to be settled as in other cases 32
If no committee be appointed, the amount to be determined by a surveyor 32
Upon payment of compensation payable to commoners the lands to vest 33

(o.) As to Stopping up Highways 33
Principal Secretary may stop up and divert footpaths 33
Power to divert highways, &c. 33
Power to alter the course of brooks, &c. 33

(p.) Taking of Lands for a Temporary Purpose 34
Erections on lands taken for a temporary purpose to be removed before the lands are restored to the owner, and compensation shall be made for the injury done 34
In case of diragreement, how compensation shall be settled.. .. 35
Act not to affect any agreement between the parties.. 35

(q.) As to Payment of Local Rates 35
Lands to continue subject to tithe rent-charges, taxes, and rates .. 35
Lands to continue subject to land tax and rates 35

(r.) As to Notices and Claims 36
Principal Secretary empowered to give notices, make claims, and authorise entries, &c. 36
Notices, &c., required to be served on or given by Secretary of State to be served on or given by the Solicitor 36

(s.) As to Exemption from Personal Responsibility 36
Principal Secretary exempted from personal responsibility .. 36

(ss.) Members of the Commons prohibited from Contracting for Public Supplies 247
After the end of this session, all persons holding contracts, &c., for the public service shall be incapable of being elected or sitting in the House of Commons 247
If any member accepts or continues to hold any such contract, &c., after the commencement of the next session, his seat shall be void 248
Not to extend to incorporated trading companies 249
Not to extend to contracts devolving by descent, &c., until after 12 months' possession 249
If any person hereby disqualified shall be elected, election shall be void 249

PAGE

Disabled persons who shall sit in the House of Commons after this session shall forfeit 500*l.* for each day 249

A condition to be inserted in all public contracts that no member of the House of Commons shall have any share thereof 250

Penalty on contractors who shall admit any member of the House of Commons to any share of their contracts 250

Limitation of actions 250

(*t.*) As to Actions and Suits 37

1. Under the Defence Act, 1842 :—

Ordnance may sue as "The Principal Officers of Her Majesty's Ordnance," without naming them 37

Privileges and prerogatives of the Crown not to be curtailed .. 38

Transfer of powers to the Principal Secretary 38

2. Under War Department Stores Act, 1867 :—

Power for Secretary of State to sue, &c. 39

(*u.*) As to Legal Proceedings for the Recovery of the Possession of War Department Lands 39

Recovery of possession of land in England from tenants 39

Recovery of possession of land in Ireland from tenants 40

(*v.*) As to Sales and Exchanges 41

Lands, &c., may be sold, exchanged, or let 41

Purchase moneys shall be paid to those whom the Principal Secretary may direct 42

After purchase-money paid, the purchaser to have full right and possession 42

Compensation to be made where equitable rights are established .. 42

But not to exceed the purchase-money received by such Principal Secretary 43

(*w.*) Lands may be Sold subject to Clearance Rights 43

Power of the Secretary of State for War to sell lands, subject to conditions as to freedom from obstructions, and to purchase the right to subject lands to such condition 43

(*x.*) Transfer of Lands to another Public Department 44

Effect of future Orders in Council 44

(*y.*) Transfer of Fortifications to Colonial Governors 45

Power by Order in Council to transfer colonial fortifications to governor of colony 45

(*z.*) As to Arsenals, Factories, and Storehouses for Explosives 45

Penalty on and removal of trespassers 45

Arrest without warrant of persons committing dangerous offences .. 46

Imprisonment for wilful act or neglect endangering life or limb .. 46

Punishment for defacing notices 46

Mooring of vessels 46

(*aa.*) As to Commons (Metropolitan) 47

(*bb.*) As to Ranges for Artillery 47

Prohibition of sweeping, &c., near dockyards. artillery ranges, &c... 47

Penalty 48

(*cc.*) As to Ranges for Volunteers 49

Power to corps to purchase land with consent of Secretary of State 49

Power to Secretary of State to make bye-laws 50

(*dd.*) As to Railways—

Power on occasion of emergency to take possession of 251

PAGE

II. GENERAL VESTING ACTS RELATING TO ORDNANCE LANDS TRANSFERRED TO THE WAR DEPARTMENT.

Vesting Acts of Queen Anne's Reign 50

Any five of the Commissioners appointed to agree with the owners of the lands, &c. Persons refusing to treat or incapable. The Commissioners may issue Warrants to the Sheriff, to impanel a jury to enquire into the true value 51

And their verdict to be certified into Chancery, by the 23rd October 1709 .. 51

Reasons for passing this Act 52

After 10th April 1710 the messuages, &c., specified by inquisitions returned, are settled in trustees for the use of the respective owners 52

The Queen may appoint Commissioners, who may determine all rights. The Commissioners to enter their decrees in books, &c., which decrees shall be certified to the Clerk of the Crown, and be final 53

No private building to be erected 54

Vesting Acts of Geo. II.'s Reign 54

Vesting Acts of Geo. III.'s Reign 54

Officers of Ordnance, before January 1, 1785, in a written declaration, to specify the particular vested lands, &c., which will be wanted for the purposes aforesaid 55

And all the lands not so specified shall be re-vested in the former proprietors 55

Clause relative to lands, &c., wanted only for restraining the proprietors from building thereon 55

1802 to 1815 57

III. THE STATUTES UNDER WHICH THE BARRACKS OF THE UNITED KINGDOM HAVE BEEN ACQUIRED.

(1.) As to Barracks in England :—

1792. The Barrack-Master-General 57

All premises (except copyholds) conveyed to the late and present Barrack-Master-General, &c., for the Barrack Department, and other premises hereafter to be purchased for that Department, shall be vested in the Barrack-Master-General for the time being, in trust for His Majesty, for public purposes 58

1808. The Barrack Commissioners 58

All premises (except copyhold vested in Barrack-Master-General) under recited Act, and all premises since purchased or which may be purchased for the Barrack Department, shall be vested in the Commissioners for Affairs of Barracks, in trust for His Majesty for public purposes 59

Commissioners may bring and defend actions.. 59

1817. The Barrack Comptroller 60

Premises vested in Commissioners for the Affairs of Barracks under recited Act, and all messuages, &c., since purchased, or which may be purchased for the Barrack Department, shall be vested in the Comptroller of the Barrack Department, but on the same terms as they now held in trust for His Majesty 60

Comptroller, with consent of the Treasury, may sell premises, and to do any other act in relation to the premises that should be deemed beneficial for the public service 61

Bodies politic, &c., may agree for enfranchisement and for sale of lands 61

Such contracts, &c., valid 61

PAGE

Purchase-money to be paid to Deputy Remembrancer of Exchequer for owners of land, &c., and to be certified to the Exchequer. Copy of certificate signed by Deputy Remembrancer. Evidence.. 61

1822. The Board of Ordnance 62

All messuages, lands, &c., which by recited Act 57 Geo. III., cap. 9, were vested in the Comptroller of the Barrack Department, and also such as have since been purchased or held in trust for the Barrack Department (except copyholds) shall be vested in the Principal Officers of the Ordnance, in trust for public services.. 62

(2.) As to Barracks in Ireland:—

1717. The lands immediately vested in the King from such time for said uses, unalienable, notwithstanding any disability, &c. .. 63

Said yearly rents to be inserted on the military list, and payable to owners without warrant or deduction 63

1799. Commissioners of Barracks may upon communication with Lords of Treasury, and by direction of Lord Lieutenant, take leases of grounds or houses, &c. 64

Powers of juries as herein 64

In cases where leases are not, or cannot be executed, commissioners shall cause leases to be prepared, &c., as herein 64

It is often expedient to send one of said commissioners to several districts 65

1822. Messuages, lands, &c., held for the service of the Barrack Department in Ireland (except copyholds) shall also be vested in the Principal Officers of the Ordnance in trust for the public service 65

(3.) As to Barracks in the United Kingdom:—

Powers of recited Act of 1 and 2 Geo. IV., c. 69, to extend to this Act 66

IV. THE DEFENCE (VESTING) ACT OF 1860.

Lands to be taken and lands to be kept free from buildings to be ascertained by declaration of Secretary for War 67

Delaration, what to show 67

Copy of Declaration, &c., to be deposited with Clerks of the Peace, &c. .. 67

Lands taken to be vested in Secretary of State on behalf of Her Majesty .. 68

Power to Secretary of State to enter immediately 68

Restrictions and powers with respect to lands required to be kept free from buildings 68

Limitation of time for works under last preceding Enactment 69

V. VESTING AND OTHER ACTS RELATING TO LANDS SITUATE AT THE SEVERAL WAR DEPARTMENT STATIONS, ALPHABETICALLY ARRANGED.

Stations generally 69

Saving right of Her Majesty's Principal Secretary of State for the War Department 69

Saving for works and property of certain authorities, and for navigation and water rights, &c., in Public Health Act 70

Aberdeen 70

Provisions of Local Act not to apply to Her Majesty's forces .. 70

Officers of Ordnance may furnish Commissioners with maps, or cause surveys to be made 70

Ships in Her Majesty's Service exempted 70

PAGE

Alderney Harbour 70
Power to Her Majesty by Order in Council to transfer works and lands at Alderney to the Admiralty, or to Secretary of State for the War Department 70
Tenure by Admiralty and Secretary of State of property transferred 71
Publication, &c., of Orders in Council 71
To be laid before Parliament 71
Confirmation of acts of Board of Trade, Admiralty, and Treasury previous to Order 71
Aldershot Camp 71
Preamble 71
Rights of Way over certain roads extinguished 72
Agreement, dated 31st May 1856, as to certain roads confirmed .. 73
Copy of the said agreement and plans to be deposited 74
Power of Secretary of State to allow certain Road Surveyors to take gravel for repair of roads, &c. 74
Secretary of State to set out ground for certain roads 74
Secretary of State to cause certain roads to be provided for horses, &c. 74
Inclosure Commissioners, upon application of Secretary of State, to set out certain occupation roads 75
Provisions of 11 & 12 Vict., cap. 63, to be applied to Aldershot .. 75
Local Board to consist of 12 persons 75
One-third to go out of office annually 75
Three persons to be nominated by Secretary of State 75
Vacancies to be filled up by Secretary of State 75
Qualification of elected members 75
Athlone 76
Railway Company to construct bridges on Ordnance property as Ordnance Officers shall desire 76
For the Protection of Ordnance Property at Athlone 76
As to mode of constructing Railway through Ordnance Property at Athlone 76
Ayr 77
Power to Trustees to make slip dock and other works 77
Brixham (*see* Devonport and Plymouth) 78
Burntisland Low Water Pier 78
Exemption of certain vessels in the service of Her Majesty, &c. .. 78
Chatham and adjacent parishes 78
His Majesty may stop up the lane or road herein described 79
As to the construction of the Tunnel at Fort Pitt 79
As to fortifications at Chatham 79
No buildings to be erected on the Ordnance property without consent 80
Clifford's Fort 80
For protection of Clifford's Fort 80
Cork 80
Preserving supply of water to the Barracks in the City of Cork .. 80
Alteration of Queenstown branch at the Belvelly channel 81
Secretary of State for War to have right of way over substituted road 81

PAGE

The Curragh of Kildare 81
Management of Curragh by Ranger 81
Office of Ranger 81
Office of Deputy Ranger 82
Division of Curragh into three parts 82
Control of Site of Camp by War Department 82
Use of Rifle ground 82
Use of green lands 82
Power for War Department to add to site of camp 83
Power for War Department to drain camp 83
Actions and suits by and against War Department 83
When site of camp and use of rifle ground no longer required for military purposes, same to become subject to control of Ranger .. 83
Power for War Department to dig Gravel 83
Diversion of Road from Ballysax to Athgarvan 84
Use of Curragh for racing purposes 84
Continuance of rights of common 85
Regulation of rights of pasturage over Curragh 85
Power to make bye-laws 85
Penalties in bye-laws 85
Recovery of penalties 85
Commissioners to ascertain rights of Common, &c. 86
Sheep only to be depastured 87
Sheep to be marked 88
Ranger to have power of occupier in relation to trespasses 88
Devonport and adjacent parishes.. 88
Lord of the Manor of Stoke Damerell allowed to dig lime stones, and other stones, proper for building, or paving the streets of the town, within a certain distance of the works, and to build lime kilns; and to enjoy a foot-way and passage from the Ferry to Dock Town, &c. 88
And also to enjoy a proper landing place on Mutton Cove, and ground to erect quays and wharfs thereon, and a carriage-way to the same 89
With the several landing places, &c., now used over the creek and river 89
No ferry boat to be made use of for passage over the creek, except in the King's service, without license of the Lord of the Manor .. 89
Recital of an Article in the Verdict of the Jurors in the County of Cornwall 89
Recital of a Clause in the Verdict of the Jurors in the County of Devon 90
Taking the said valued lands for the use of His Majesty, shall not affect other lands in the same parish with regard to taxes.. .. 90
Exception in favour of the Office of Ordnance 91
Dover 91
Harbour Act not to extend to vessels in His Majesty's service, &c. 91
Railway Company not to construct certain works without consent of Secretary of State for War 92
Company not to interfere with or take certain works without consent of Secretary of State for War 92
If Tunnel abandoned after being commenced, Company to fill up and make same secure 92
During war, &c., Secretary of State may take possession of certain part of Company's line 92
Description of authorised works 93
Maintenance of surface of revetments 93

PAGE

Sums borrowed by Corporation to be deemed to be borrowed on behalf of owners 93
The War Department may contribute to the expenses 93
For defraying the expenses of maintenance of works 94

Dublin 95
Railway not to be constructed at certain points except with consent of Board of Ordnance 95
For protection of property belonging to the Board of Ordnance .. 95
As to providing site for a battery 95
Saving certain rights of Secretary of State for War 96

Eastbourne Circular Redoubt 96
Saving rights of Her Majesty's Principal Secretary of State for the War Department 96

Felixstowe 96
Culvert to be constructed for carrying water pipe belonging to the War Office under railway 97
In crossing Walton Creek Company to construct culvert and other works 97

Galway 97
Railway Company to construct bridges on Ordnance property as Ordnance Officers shall desire 98
Company not to deviate to the south through Ordnance property .. 98
A footpath to be constructed from the barracks into the town of Galway, for the free passage of troops, &c. 98
Bridge to be erected between Ordnance property and Point Rinmore 98
Property of the Ordnance not to be taken compulsorily under Local Act, unless same shall cease to be used for public service.. .. 98
This Act not to extend to Her Majesty's Forces, &c. 99

Glasgow 99
Branch Railway not to be carried within 100 yards of Barrack, without consent of Board of Ordnance 100

Gosport (*see* Portsmouth).

Gravesend (*see also* Tilbury) 100
No works on Milton lands to obstruct the defensive works of Gravesend 100
Public baths and landing place only to be erected 100
Officers of Ordnance, &c., exempted from payment of rates .. 100
Saving rights of the Ordnance 101
The lands and estates of Her Majesty exempt from the operation of Local Act, except as to liability to rates and assessments 101
Purchaser, under Pier Sale Act 1875, to be subject to provisions of lease granted by Ordnance Department 101

Harwich 102
Dock Company to provide a new site for battery, and a road there 102

Inverness 103
Regulations in regard to gunpowder under Local Act 103
Magistrates empowered to make rules, orders, and regulations relative to the depositing and removal of gunpowder 103

PAGE

Ireland 103

Nothing to authorize Company to interfere with property of Board of Ordnance without consent 103

Railway, &c., not to pass within 50 yards of towers, &c., without consent of the Ordnance Department 103

Knightsbridge Road 104

Commissioners of Woods empowered to sell the "Knightsbridge land" to the Metropolitan Board 104

Reservation of right to construct vaults under pavement 104

Appropriation of land by Metropolitan Board 104

Present site of barracks to remain part of Hyde Park, but to be under charge of Secretary for War so long as used for barrack purposes 105

Liverpool and Mersey Powder Stores 105

Lord High Admiral, with approval of the Master-General of the Ordnance and Conservators of the River Mersey, may appoint places for mooring vessels for storing gunpowder in the said river 105

Ordnance to appoint officer to superintend stores, with authority to enforce Regulations 105

Master-General of the Ordnance may make Regulations concerning vessels moored in the River Mersey 105

Penalty on Persons failing to observe such Regulations 106

Exemption of magazines in the Mersey from Explosives Act, 1875.. 106

Liverpool and Mersey Docks 106

Agreement to demise land to the Secretary of State for the War Department confirmed 107

London, Tower of 109

Interpretation of "Tower, district of," &c. 109

Saving rights of the Crown 109

Garden on Tower Hill (Metropolitan Act and Agreement).. .. 109

Lydd.. 112

No erection to be in front of Grand Redoubt 112

Limiting line where crossing property of War Department.. .. 113

An equivalent in land to be provided by the Company for the Battery.. 113

Milford, Pembroke.. 113

Netley Hospital Estate 113

Certain rights of way over Netley Hospital extinguished 113

Netley, Itchen Bridge 113

Newhaven 114

Vessels, &c., in Her Majesty's service exempted from harbour duties 114

Penalty on claiming exemption unlawfully 114

When Money borrowed under 31 Geo. III., c. 76, is paid off, Scots to be collected under this Act 114

Proportion in which owners and occupiers are to pay Scots.. .. 115

Company to pay costs of construction of certain fortifications .. 116

Description of Works 116

First section of Works to be constructed first 118

Newry, Armagh 118

Pembroke (*see* Milford).

PAGE
Plumstead Ranges 118
If practice range on Plumstead Marshes be discontinued, Company to pay a sum towards another practice range 118
Plumstead Common and Training Ground 119
As to portion of the Common to be used by the Military 119
Common to be under management of the Board 120
Power of Board as to improvement of Common and Green .. 120
Common to be preserved from encroachment 120
Power to make bye-laws and regulations 120
Restrictions as to grazing cattle, &c. 120
Public roads, &c., not to be under the care of Board 120
Power to purchase commonable rights, &c. 121
Power to extinguish rights, &c., when purchased 121
Power to limit rights of common by agreement 121
Provision for compensation 121
As to acquisition or surrender of rights of War Office 121
Plymouth, and *see* Devonport 121
1. Water Leet 121
Contracts between Corporation and Secretary at War, &c., for supply of water 122
User of water under contracts with Secretary at War, &c. 123
Restrictions as to supply 123
2. Water Supply 123
The Company empowered to pass the lines, agreeable to the consent of the Board of Ordnance 123
The Principal Officers and Commissioners of the Board of Ordnance to be supplied by the Company with the water after-mentioned .. 124
The water supplied for the Ordnance not to be appropriated to any other uses 124
Encampments to be supplied 125
Repairs of pipes 125
3. Millbay Docks 125
Troops, &c., may be embarked or disembarked free of rates .. 126
Officers and men in the service of Her Majesty may land at any of the Docks 126
Act not to extend to ships or vessels in the service of Her Majesty, &c. 126
4. St. Budeaux Road 126
Crossing of a certain road to be approved of by Board of Ordnance 126
Portland Castle 126
The railway not to interfere with the Military Defence of Portland Castle 127
Portsmouth, including the adjacent Parishes 127
1. Haslar Bridge 127
An annual sum to be paid by Admiralty and Ordnance, for their officers and servants 127
2. Floating Bridge 128
Not to obstruct Her Majesty's Ships 128
For securing the free passage of ships 128
Company may compound with the Admiralty, &c., for the use of the bridges 129
Boats, &c., in Her Majesty's service exempt from toll 129

PAGE

3. Town Quay.. 129
Works to be executed according to the plan approved by the Board of Ordnance 129
General Exemptions 130
Saving Rights of Admiralty and Board of Ordnance.. 130
Street Tramways, Gosport—
As to alteration of moat bridge and fortification 131

4. Paving Commissioners, &c. (Portsea) 131
Commissioners to have no power over Ordnance lands 131
Commissioners of the Navy may inclose the Common Hard, making another between the Dockyard and Gun Wharf 132

5. The Town Pier 132
Exemptions from tolls 132

6. Hilsea Lines 133
Railway Company not to enter upon Crown land without consent of Board of Ordnance 133
If consent granted, the company to hold the land as tenants at a rent 133
Works executed upon Crown property to be approved by Board of Ordnance 133
Board of Ordnance empowered to alter existing fortifications, and add new ones, or destroy railway works for the purposes of defence, without making good the damage 133
Company to execute such works as the Board of Ordnance may require to prevent prejudice to the fortifications 134

7. Portcreek Viaduct.. 134
Railway Company not to enter upon certain Crown lands without consent of Board of Ordnance 134
If consent granted, Company to hold such land as tenants at a yearly rent 134
No works to be executed upon the Ordnance property except upon a plan approved by the Board of Ordnance 135
Board of Ordnance may alter existing fortifications and add new ones, or destroy railway and works for the purposes of defence .. 135
Company to execute such works as the Board of Ordnance may require to prevent prejudice to the fortifications 135

8. Paving Commissioners (Portsmouth) 136
Who to be deemed occupiers of premises belonging to the Ordnance and the Gaol 136
Saving rights of Crown and Admiralty 136

9. Stokes Bay Railway 136
Railway over Ordnance lands to be upon viaduct 136

10. Exemption from Rates 136
Certain buildings exempted from rates under Local Act 137

11. Colewort Barracks.. 137
Rights of Way through Colewort Barracks extinguished 137

12. Portsdown Fair 138
On passing of this Act Portsdown Fair, and the right to receive tolls, to cease.. 138

13. Joint (Portsmouth) Railways 138
Providing for lines within Crown lands 138

PAGE
Providing for works for War Department 139
Providing for branch to Gun Wharf 139
For securing completion of Railway No. 2 139
Providing for landing stages 130
Provisions as to planting embankment with shrubs, &c. 139
Providing for opening bridge on Railway No. 2 139
Tolls to be charged to Admiralty and War Department 140
Agreements between Companies and War Office and Admiralty .. 140
Saving rights of Her Majesty's Principal Secretary of State for the War Department 140
Purfleet, Essex 140
The mills at Purfleet to be taken down; and the Fleet to be left open 141
Proper floodgates to be erected to keep out the sea water, and permit the fresh water to go off with the ebb tides, &c. 141
The Fleet to be under the Commissioners of Sewers for the Levels of Alvey and West Thurrock; but the expenses of the repairs, &c., to be paid out of the moneys granted for the Ordnance Service .. 141
Footbridge to be maintained over Ordnance Road 141
Prescribing distance of railway from magazines at Purfleet 141
The Royal Military Canal and Road 142
Power to sell or demise canal and collaterel works 142
As to Road—Secretary of State may make rules and regulations; and may take rates and tolls.. 142
Ashford Road and Appledore not to be subject to toll 143
Owners or occupiers of lands through which the military road, &c., pass, in what cases exempted from toll 143
Commissioners may farm the tolls 143
Erection of turnpikes 144
Penalty for fraudulently claiming a right to carry articles at a lower rate 144
Recovery of rates and tolls 144
Penalty for throwing dirt into the canal or works 144
Punishing persons setting fire to or damaging works 144
Fences to be made to separate the canal from private grounds .. 145
Not to make bridges over any cuts or drains 145
Lands liable to former payments 145
Land tax to be apportioned 145
Canal to be exempted from poor rates.. 145
Officers not to be exempted from poor rates 146
Jurisdiction 146
Sandhurst, The Royal Military College 146
When the new road is certified by the Justices to be in good repair, the old road shall be stopped up and the soil vested in His Majesty 146
By whom the new road shall be kept in repair 147
Upon passing of this Act Lands of the Royal Military College to vest in Secretary for War 147
Certain Lands on passing of this Act to vest in the Crown 147
Sheerness and adjacent parishes 148
1. The Pier 148
Exempting soldiers and sailors 148
Exemption 148

PAGE
2. The Railway 149
Plans to be approved by the Secretary of State for War 149
Shoeburyness Ranges 149
Spaces for the practice of artillery to be kept free and open, and to be marked by buoys, &c. 149
Rights of Anchorage and grounding to cease, and notice to be given to the Admiralty, and advertised in newspapers, and on church doors 150
No vessel or person to pass over ranges marked out pursuant to this Act 150
Penalty for offences to be recovered 150
Saving rights of Lords and Ladies of the Manors of South Shoebury and Wakering 150
Shoreham 151
Saving rights of Her Majesty's Principal Secretary of State for the War Department 151
Shorncliffe Camp 151
Sunderland Docks 151
Company to provide a suitable site for the erection of a new battery, &c. 151
Works not to encroach upon the Barrack enclosure 152
Tay Ferry and works 152
Tilbury (*see also* Gravesend) 152
Companies to convey ordnance stores, &c., in steamboats at certain rates 152
Exemption from Pier Tolls in respect of Ordnance Stores and troops 153
Prescribing distances of railway and buildings from Tilbury Fort .. 153
Walmer Castle.—Lands adjacent.. 153
Lands conveyed by recited Indentures vested in Secretary of State for War 154
Waltham 154
Level of water to be maintained at or near Waltham 154
Aqueduct Lock to be executed to the satisfaction of the Board of Ordnance 154
Saving rights of the Board of Ordnance 154
Directing that when the cut shall be made from King's Wier to the West Tail Stream of the Powder Mill near Waltham Abbey, the trustees shall repair and keep in repair Waltham turnpike, and of sufficient height to supply the Corn Mills, the Gunpowder Mills, and Calico Grounds, at Waltham, with water 253
A bore to be made in Waltham turnpike for providing a constant supply of water down the river to the Calico Grounds at Waltham 251
Sir William Wake and his tenants may contract the current of the river opposite the Calico Grounds at Waltham 252
Calico Grounds at Waltham to be supplied with water from Waltham Abbey Corn Mill stream 253
Navigation to Messrs. Walton's Gunpowder Mills to be preserved.. 253
Owners of Gunpowder Mills not to supply water 254
Rights of the owner of the fishery above and below Enfield Mill saved 254
Navigation to be free 254
Penalty on persons opening locks, &c... 254
Pleasure boats not to be taxed, &c. 255
Lords of Manor may fish, fowl, &c., as heretofore 255

PAGE

Sewage, &c., prohibited from being newly sent into Lee or tributaries 255
Warley 155
Weedon 155
Weymouth 155
Exemptions from Harbour Dues 155
Wimbledon Common, Surrey 157
Annual occupation of part of Wimbledon Common by National Rifle Association 157
Period of occupation by Association, and shooting period 157
Protection of public by signals, &c., during occupation by Association 157
Protection of surface, heather, &c., by the Association 158
Permission for Association to drain and erect temporary buildings, &c. 158
Permission for Association to erect paling, &c. 158
Possession of buildings by Association.. 159
Annual payment by Association 160
Damages recoverable from Association... 160
Appointment of trustees for Association 160
Power to substitute other security for Association, by agreement .. 161
Use of part of Wimbledon Common for ranges by certain Volunteer Corps 161
Period of occupation of ranges.. 161
Protection of public by signals, &c., at ranges 162
Protection of surface, heather, &c., by corps 162
Permission for Volunteer Corps to drain, &c... 162
Annual payment by Volunteer Corps.. 163
Power to permit use of ranges by Association, &c. 163
Admission of other corps by consent, &c. 163
Proceedings against commanding officers 164
Substitution of other ranges 164
Indemnity by Association and Corps to Conservators in respect of claims, costs, &e. 164
Saving of general bye-laws as affecting members of Association, Volunteer Corps, &c... 164
Penalty for using ranges at unauthorised times 165
Arbitration in case of difference 165
Mode of arbitration 165
Termination or suspension of permission to Association or corps .. 165
Nature of privilege of Association. Volunteer Corps, &c. 166
Power to make bye-laws.. 167
As to use of common for military purposes 167
Windsor—Barrack Lane 168
Rights of way along Barrack Lane to cease 168
Woolwich 168
No ancient highway to be stopped 168
Woolwich Dockyard, &c., exempted from operation of Local Act .. 169
First election and nomination of Local Board for Woolwich .. 169
Special provision as to Parish of Woolwich 170
Conservators may make Bye-laws for the Regulation of the Thames 170

PAGE
Penalties not exceeding 5*l.* may be imposed by bye-laws 171
Bye-laws to be approved and published in newspapers 171
All the estate of the Corporation of London and the Crown in the bed and soil of River Thames vested in Conservators 171
Reservation of part of the bed and soil 171
This Act not to extend to Her Majesty's ships or moorings or to affect the Act 54 Geo. III., c. 159 172
Rules and Bye-laws 172
Wormwood Scrubs.. 172
For protection of military road belonging to the Ordnance (L. & P.) 172
Short title of the Act 173
Vesting of Wormwood Scrubs and of adjoining land in Metropolitan Board of Works 173
Use of the Scrubs for military purposes, and for exercise and recreation 174
Laying out and planting of the Scrubs.. 174
Regulation of Scrubs for military purposes 175
Power of Board to make bye-laws as to the Scrubs 175
Expenses of Metropolitan Board 176
Reverter of the Scrubs to Secretary of State for War 176
Compensation for rights injuriously affected 176
Interpretation of terms in Metropolitan Board of Works Act 1877 177
General power of Board as to bye-laws 177
Special bye-laws as to heaths and commons 178
Regulations respecting bye-laws 178
Allowance of bye-laws 178
Bye-laws as to prohibition of drill 179
Appointment of constables 179
Arrest of transient offenders 179
Bye-laws under the Act to supersede those already made 179
Penalties under bye-laws to be paid to Board.. 179
Bye-laws under the Act.. 179
Yarmouth, Great 184
Duties not to extend to vessels in His Majesty's service (L. & P.) .. 184
Youghal 184
Line of railway, &c., not to pass within 20 yards of nearest point of barracks at Youghal 184

VI. THE MILITARY MANŒUVRES ACTS, 1871–1873.

Short title 185
Regulations as to the forces 185
Passage of forces over lands 185
Lands closed against passage of forces.. 186
Compensation for damage done by forces 186
Commissions for making regulations as to passage of forces over lands 186
Mode of determining the compensation payable in respect of damage by passage of forces 188
Regulations as to persons not belonging to the forces, and Miscellaneous .. 190
Offences against Act 190
Constables to be appointed for repression of offences against Act .. 192
Justices to be appointed for punishment of offences against Act .. 192
Evidence of orders and regulations 194

PAGE

Camping Grounds 195

Specified camping grounds to be within the limits of Act 195

Definitions 195

Duration of Act 197

Time during which Act is to remain in force 197

VII. WARLIKE EXPERIMENTS (BERMUDA).

Preamble 198

War Department to have power to occupy any waters, &c., temporarily for warlike experiments 198

Notice to be given and precautions taken for buoying and marking places so occupied 198

Persons removing or wilfully damaging any War Department boat, buoy, &c., to be held liable to a penalty not exceeding 20*l*., with costs of prosecution and for actual damage done 198

Mode of enforcing penalty 199

The ship channels and main boat channel not to be obstructed, and private property not be occupied without owner's permission .. 199

Rights of the Crown not to be prejudiced 199

VIII. AS TO ARMS AND MUNITIONS OF WAR.

As to the Proof of Small-Arm Barrels under Gun Barrel Proof Act .. 199

Reserving power for Crown to establish public proof houses .. 199

Bye-laws to be made by Guardians 200

Bye-laws to be allowed and approved before coming into operation 200

Alteration of Rules, Regulations and Scale for proof 200

How far Act shall extend to barrels made for Her Majesty's Forces, &c. 201

Schedule B 201

Factories 202

Gunpowder and Ammunition 202

Exemption of Government factories, &c., from the Act of 1875 .. 202

As to the Import and Export of Arms 203

Arms, &c., may be prohibited 203

Goods prohibited by proclamation 203

As to the Transport of Stores 203

Authority by Secretary of State to carry naval and military stores stores in passenger ships 204

Exemption from Pier and Harbour dues 204

Exemption of vessels in Her Majesty's service, &c., from rates .. 204

As to Patent Rights 204

Improvements in instruments or munitions of war may be assigned by inventors to Secretary of State for War 205

Secretary of State for War may certify to Commissioners of Patents that the invention should be kept secret 205

Where the Secretary of State for War has so certified, petition for letters patent, &c., to be left with the Clerk of the Patents in a packet under seal of Secretary of State 205

Such packet to be kept so sealed, or under the seal of the commissioners 206

Such sealed packed to be delivered, on demand, to Secretary of State, or by order of Lord Chancellor 206

PAGE

At the expiration of letters patent sealed packed to be delivered to Secretary of State 206

Where Secretary of State certifies after filing of petition, documents already filed to be put into a sealed packet.. 206

Copy of specification, &c., not to be sent to Scotland or Ireland, or published, but otherwise provisions of Patent Acts to apply .. 206

No scire facias to be brought 207

Secretary of State may waive the benefit of this Act as respects any invention 207

Communication of invention to Secretary of State, &c., not to prejudice letters patent 207

IX. AS TO THE PROTECTION OF STORES.

Under the Criminal Law 207

Short title of Public Stores Act 1875 207

Interpretation of terms 207

"Summary Jurisdiction Acts".. 207

"Court of summary jurisdiction" 208

Stores to which the Act applies 208

Marks in schedule appropriated for public stores 208

Obliteration with intent to concealment 208

Power to stop suspected boats, persons, &c. 208

Unlawful possession of Her Majesy's stores 208

Penalty on dealer, &c., found in possession of stores, and not accounting for them 209

Criminal possession explained 209

Conviction of dealer in old metals 209

Parts of 24 & 25 Vict., c. 96, incorporated 209

Principals in the second degree and accessories 209

Abettors in misdemeanors 209

Abettors in offences punishable on summary conviction 209

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property 210

Provision as to valuable and negotiable securities 210

Not to apply to prosecutions of trustees, bankers, &c. 210

A person in the act of committing any offence may be apprehended without a warrant 210

A justice, upon good grounds of suspicion proved on oath, may grant a search warrant 210

Any person to whom stolen property is offered may seize the party offering it 211

If a person summarily convicted shall not, &c., the justice may commit him. Scale of imprisonment 211

Justice may discharge the offender in certain cases 211

A summary conviction shall be a bar to any other proceedings for the same cause 211

Appeal 211

No certiorari, &c. 212

Convictions to be returned to the Quarter Sessions 213

Venue in proceedings against persons acting under this Act .. 213

Notice of action 213

General issue, &c. 213

Offences committed within the jurisdiction of the Admiralty .. 213

PAGE
Form of indictment for a subsequent offence.. 214
When the previous conviction is to be proved on the trial 214
Fine, and sureties for keeping the peace; in what cases 215
Hard labour 215
Solitary confinement and whipping 215
Summary proceedings in England may be under the 11 & 12 Vict., c. 43, and in Ireland under the 14 & 15 Vict., c. 93 215
Except in London and Metropolitan Police District 216
The costs of the prosecution of misdemeanors against this Act may be allowed 216
Provision for regimental necessaries, &c. 216
Summary proceedings for offences, penalties, &c., in England, Ireland, and Scotland 216
Penalties, &c., to be paid into Exchequer 217
Not to prevent persons being indicted 217
Amendment of sect. 45 of 28 & 29 Vict., c. 89 217
The Employment of the Metropolitan Police 217
Such number of constables of the metropolitan police as the Secretary of State may direct may be employed in Her Majesty's yards, &c. 218
Commissioner of metropolitan police may swear constables to act within Her Majesty's yards, &c., and within fifteen miles thereof 218
The word "yards" 218
Penalty for assaulting, &c., police when in execution of their duty.. 218
Application of penalties.. 219

B.—THE SURVEYOR-GENERAL OF THE ORDNANCE.

Act of 1870.. 219
Order in Council 219
Duties assigned to the Surveyor-General 220

APPENDIX.

1. Form of Conveyance from 22 Vict., cap. 12 (Schedule A) 221
2. Form of Conveyance from 22 Vict., cap. 12 (Schedule B) 221
3. Notice that Lands, Buildings, Hereditaments, or Easements, are required to be taken for the Public Service, under "The Defence Act, 1842 .. 222
4. Certificate of two of Her Majesty's Deputy Lieutenants 222
5. Warrant of Lords Commissioners of Treasury 223
6. Warrant of Two Justices 224
7. Warrant to Sheriff 225
8. Return of the Verdict.. 225
9. Order to show cause why Proceedings should not be returned to Court.. 226
10. Rule to return Proceedings 227
11. Rule Nisi for New Trial 228
12. Request to Accountant-General, Court of Chancery, for directions to pay Purchase-Money into Bank of England, under Section 25, Defence Act, 1842.. 229

PAGE

13. Request to Accountant-General, Court of Chancery, for directions to pay Purchase-Money into Bank of England, under Section 20, Defence Act, 1860 229
14. Notice convening Commoners to settle Compensation for Common Rights 230
15. Resolutions of Meeting of Commoners 231
16. Agreement for extinction of Commonable Rights 232
17. Notice under Section 27, Defence Act, 1842 234
18. Deed of Dedication of Burial Ground 235
19. Deed of Dedication of Ground for a Church 235
20. Notice requiring Removal of Buildings 236
21. Power of Attorney to Remove Obstructions 237
22. Agreement as to Removal of Buildings 238

The War Department Stores Acts, 1875.

23. Form under Section 8 of Act.. 240

The Military Manœuvres Act.

Forms under Section 5 :—

24. Form of appointment of those members of the Consultative Commission who were appointed under the hand of the Secretary of State for War 240
25. Form of appointment, by the Officer in Command of the Forces, of the officers deputed by him to act in conjunction with the Consultative Commission 240
26. The form of delegation of powers to the several Committees 241
27. The form of authorization of Lands 241
28. The form for the authorization of Sources of Water 241
29. The form of notice published for the information of owners of cattle and sheep, on the approach of the troops 242
30. Form of authorization of place for a Temporary Bridge 242

Forms under Section 6 :—

31. The Notices respecting claims for Compensation 243
32. Form of Claim 244

Form under Section 7 :—

33. Form of Pass 245

Form under Section 8 :—

34. Appointment of Metropolitan Constables 245

Forms under Section 9 :—

35. Appointment of a Justice of the Peace to attend the Forces 246
36. Notice to Constable to take charge of prisoner offending against Act .. 246

NOTES.

	PAGE
Actions and Suits, Prosecution and Defence of, by the Secretary of State ..	5, 37
Appeal from Verdict of a Defence Jury..	21
Artillery Ranges (see Ranges)	15, 49, 66, and 149
Barracks, Erection of	20
Burial Grounds, Sites for	41
Building, restriction against	49
Camp, lands taken for	14
Charity Commissioners, as to the necessity for their consent	15, 16
Costs, when recoverable	19, 20, 26, 38
Compensation, how estimated	20, 22
Contractors' Act	247
Church Sites	41
Clearance Rights, how exercised	43, 69
Compulsory powers limited to War Department purposes	44
Defence Act, 1860	66
Defensive Works, destruction of	34
Foreshores, increment of	7
Grants or Gifts of Land	41
Interest on Purchase Money	63
Irish Land Act	40
Lands part of the Hereditary Revenues..	6
Leasehold Interests, how acquired	22, 34
Lord Lieutenant's Certificate	19, 23
Local Rates	35
Nuisance arising from use of War Department lands	14–5
Notice to treat, not a contract	18
Obstructions on Defence lands	43
Personal liability, exemption from	37
Petitions of Right	37
Private Buildings on Defence Lands	54
Projectiles discharged, property in	47
Rifle Ranges, use of	15, 66
Ranges, over highways	49
Sea Walls, repair of	7
Selection of sites for building	14
Three-mile Zone	48

INDEX TO STATUTES.

N.B.—The Statutes Printed in Italics are Local and Personal.

HENRY VI.

	PAGE
6.—c. 5	9

ELIZABETH.

*27.—c. 20	*121*

ANNE.

	PAGE
7.—c. 26 ..	50, 78, 102, 127
8.—c. 21 ..	51 to 54, 78, 102, 127

GEORGE I.

4.—c. 7 (Irish) ..	63
9.—c. 32	127
10.—c. 4 (Irish) ..	63

GEORGE II.

21.—c. 9 (Irish) ..	80
31.—c. 38	113
31.—c. 39 ..	54, 78, 88, 89, 127
32.—c. 11	88
32.—c. 26	113
32.—c. 36 ..	54, 78, 88, 127
33.—c. 11 ..	54, 78, 127, 140

GEORGE III.

2.—c. 37	54
4.—c. 35	54
7.—c. 6 (Irish) ..	63
7.—c. 51	253

GEORGE III.—*cont.*

	PAGE
20.—c. 38 ..	54, 55, 89, 100, 148, 152
20.—c. 49 ..	54, 55, 79
21.—c. 10 ..	55, 79, 100, 148, 152
21.—c. 46	168
21.—c. 61 ..	55, 89
22.—c. 12 ..	55, 89
22.—c. 45	247
22.—c. 80 ..	55, 66, 79, 91
23.—c. 71 ..	55, 127
23.—c. 87 ..	55, 127
24.—c. 29 (sess. 2)	55, 66, 79, 89, 91, 127
26.—c. 94 ..	55, 127
30.—c. 61	91
31.—c. 76	114
33.—c. 85	123
34.—c. 76 ..	57, 78, 151, 168
36.—c. 22 (Irish) ..	64
37.—c. 66 ..	57, 78, 151, 168

GEORGE III.—*cont.*

	PAGE
38.—c. 34 ..	57, 78, 151, 168
39.—c. 26 (Irish) ..	65
40.—c. 26 (Irish) ..	118
42.—c. 89 ..	57, 168
43.—c. 35 ..	57, 168
43.—c. 55	34
43.—c. 65 ..	57, 168
43.—c. 66 ..	57, 155
44.—c. 78 ..	57, 155
44.—c. 79 ..	57, 79, 155
44.—c. 95 ..	4, 23, 34
44.—c. 107 ..	57, 168
45.—c. 69	57
46.—c. 105 ..	57, 91, 127
46.—c. 130 ..	57, 79, 155
47.—c. 70 (sess. 2) ..	142
*47.—c. 111	*169*
*48.—c. 41	*103*
48.—c. 101	79
48.—c. 122 ..	58, 59
49.—c. 39 ..	57, 91, 127
49.—c. 97	141
*50.—c. 76	*100*
52.—c. 124	146
54.—c. 43 ..	57, 127
55.—c. 123 ..	57, 127

GEORGE III.—*cont.*

PAGE

57.—c. 9 .. 60, 61, 62

GEORGE IV.

1 & 2.—c. 69 .. 37, 43, 57, 66
3.—c. 72 41
3.—c. 91 15
3.—c. 103 .. 62, 65, 66
5.—c. 26 66
5.—c. 49 .. .. *122*
5.—c. 83 183
6.—c. 116 .. .. *155*
6.—c. 121 .. .. *126*
9.—c. 31 .. .. *91*
10.—c. 50 7
10.—c. 120 .. .. *148*

WILLIAM IV.

1 & 2.—c. 17 23
2.—c. 25 .. 57, 66
2 & 3.—c. 1 7
5 & 6.—c. 76 35
4.—c. 4 .. .. *127*
6.—c. 49 .. .. *184*

VICTORIA.

1.—c. 11 .. .. *128*
1.—c. 20 142
1 & 2.—c. 74 39
2 & 3.—c. 72 .. .. *129*
2 & 3.—c. 47 183
3.—c. 54 .. .. *129*
4 & 5.—c. 38 41
5.—(sess. 2), c. 59 .. *100*
5 & 6.—c. 94 (Defence Act, 1842). 3, 71
sec. 5 .. 4, 6, 44
sec. 6 10
sec. 7 12
sec. 8 12
sec. 9 15
sec. 10 15
sec. 12 41
sec. 13 42
sec. 14 42
sec. 15 42
sec. 16 .. 14, 23, 33, 34
sec. 17 .. 15, 33
sec. 18 17
sec. 19 .. 18, 34

VICTORIA—*cont.*

PAGE

5 & 6.—c. 94 (Defence Act, 1842)—*cont.*
sec. 20 21
sec. 21 22
sec. 22 23
sec. 23 .. 23, 25
sec. 24 34
sec. 25 25
sec. 26 26
sec. 27 26
sec. 28 27
sec. 30 27
sec. 31 13
sec. 32 13
sec. 33 14
sec. 34 .. 37, 38
sec. 36 36
sec. 37 .. 4, 36
sec. 39 6
sec. 40 7
sec. 41 8
6.—c. 35 .. .. *131*
7 & 8.—c. 85 203
8 & 9.—c. 18 (Lands Clauses Act) 25, 30
sec. 99 31
sec. 100 31
sec. 101 31
sec. 102 31
sec. 103 32
sec. 104 32
sec. 105 32
sec. 106 32
sec. 107 32
8 & 9.—c. 19 25
„ *c. 199.* .. *134*
„ *c. 200.* .. *146*
9.—c. 13 .. .. *151*
9 & 10.—c. 83. .. *133*
„ *c. 108.* .. *132*
„ *c. 196.* .. *80*
„ *c. 208.* .. *103*
„ *c. 213.* .. *95*
„ *c. 252.* .. *133*
„ *c. 314.* .. *99*
„ *c. 383.* .. *125*
„ *c. 397.* .. *103, 184*
10.—c. 9 .. .. *114*
10 & 11.—c. 68. .. *155*
„ *c. 72.* .. *126*
„ *c. 82.* .. *100*
„ *c. 91.* .. *172*
„ *c. 27.* .. *204*
„ *c. 175* .. *76, 97*
„ *c. 257* .. *136*
11 & 12.—c. 43 .. 150, 207, 215
11 & 12.—c. 63 .. 75
12 & 13.—c. 89 .. 23

VICTORIA—*cont.*

PAGE

13 & 14.—c. 51 .. *118*
„ *c. 88* .. *76*
„ *c. 109* .. *154*
14 & 15.—c. 55 .. *78*
14 & 15.—c. 57 .. 40
„ c. 67 .. 105
„ c. 92 .. 40
„ c. 93 .. 207, 215
15.—c. 84 .. *141, 152*
15.—c. 110 .. .. *80*
15 & 16.—49 41
„ 69 169
16 & 17.—107 .. .. *203*
„ *131* *118*
„ *132* *79*
„ *200* *98*
„ *206* *102*
17 & 18.—c. 67 .. 30
„ c. 97 .. 33
„ c. 112 .. 41
18 & 19.—c. 58 .. *17*
„ c. 90 .. 38
„ c. 117 (Ordnance Board Transfer Act).
sec. 1 .. 3, 36, 37
sec. 2 5
sec. 3 .. 4, 37, 38
sec. 5 .. 3, 10, 37
18 & 19.—c. 119 .. 204
„ *c. 120* .. *170*
„ *c. 187* .. *92*
„ *c. 192* .. *136*
„ *c. 196* .. *135*
19.—c. 26 .. .. *101*
19 & 20.—c. 66 .. 14, 71, 72, 75
„ c. 108 .. 39
20 & 21.—c. 22 .. 75
„ *c. 37* .. *136*
„ *c. 147* .. *170*
„ *c. 151* .. *149*
22.—c. 12 (Common Rights Act).
sec. 1 30
sec. 2 .. 11, 30
sec. 3 .. 11, 30
sec. 4 20
sec. 5 39
sec. 6 40
sec. 8 3
22.—c. 13 .. 3, 204
22.—c. 27 41

VICTORIA—*cont.*

	PAGE
22 & 23.—c. 21	25, 28
23 & 24.—c. 34	38
„ c. 49	137
„ c. 75	248
„ c. 106	25
„ c. 112 (Defence Act, 1860).	
sec. 1	67
sec. 2	67
sec. 4	67
sec. 9	23
sec. 12	24
sec. 13	24
sec. 14	24
sec. 15	24
sec. 16	24
sec. 20	27, 28
sec. 21	28
sec. 22	28
sec. 23	26, 28
sec. 29	25
sec. 30	68
sec. 31	68
sec. 33	35
sec. 34	43, 68, 108
sec. 35	69
sec. 36	29
sec. 37	29
sec. 38	29
sec. 40	33
sec. 41	33
sec. 45	36
sec. 46	23
sec. 47	3
23 & 24.—c. 135	217
24 & 25.—c. 45	17
„ c. 51	218
„ c. 96	183, 209
„ c. 97	183
„ c. 110	209
24 & 25...c. 188	*106*

VICTORIA—*cont.*

	PAGE
25.—c. 16	113
25 & 26.—c. 33	3, 147
„ c. 34	138
„ c. 36	149
„ *c. 203*	*70*
26.—c. 12	3
26 & 27.—c. 54	3, 153
„ c. 57	3
„ c. 65	49, 203
„ *c. 71*	*102*
„ *c. 102*	*113*
„ c. 112	251
27 & 28.—c. 53	207
„ c. 57	71
„ c. 89	44
„ *c. 113*	*170*
28 & 29.—c. 65	68
„ c. 89	217
„ c. 124	38
„ c. 125	46, 168
29.—c. 3	251
29 & 30.—c. 62	7
„ *c. 89*	*170*
30 & 31.—c. 98	3
„ c. 109	168
„ c. 128	39
„ *c. 128*	*122*
„ c. 140	3, 142
31 & 32.—c. 60	3, 81 to 87
„ c. 113	199
„ *c. 154*	*259*
32.—c. 12	*109*
33 & 34.—c. 46	40
„ c. 17	219
„ c. 74	87
„ c. 95	204
34 & 35.—c. 86	49, 251

VICTORIA—*cont.*

	PAGE
34 & 35.—c. 97	185
„ *c. 204*	*157*
35 & 36.—c. 66	*142*
„ c. 68	18, 25, 35
„ *c. 177*	*116*
36 & 37.—c. 58	185
„ c. 68	17
„ c. 72	43
„ c. 84	18
„ *c. 86*	*47*
„ *c. 118*	*138*
„ *c. 143*	*108*
37 & 38.—c. 92	70, 71
38.—c. 17	45, 46, 106, 202
38.—c. 47	*101*
38 & 39.—c. 25	*48, 207*
„ c. 55	70
„ c. 69	3
39 & 40.—c. 36	203
„ *c. 211*	*151*
„ *c. 228*	*112*
40.—c. 8	*47, 177*
40 & 41.—c. 23	45
„ *c. 113*	*93*
41.—c. 16	202
41 & 42.—c. 71	*116*
„ *c. 145*	*119*
42.—c. 27	*131*
42 & 43.—c. 94	*81*
„ *c. 97*	*96*
„ *c. 140*	*77*
„ *c. 160*	*173, 179*
„ *c. 170*	*95*
„ *c. 177*	*96*
„ *c. 201*	*109*
„ *c. 219*	*104*

INDEX OF CASES.

A.

PAGE

Attorney-General *v.* Chambers, 4 De G. & J., 55 & 206 7
„ *v.* Great Southern and Western Railway (Ireland) 204
„ *v.* Tomline (1879) 9

B.

Banister *v* Bigge, 34 Beav. Rep., 289 49
Beadle *ats.* Reg., 7 Ell. & Blac., 496 38
Bigge *ats.* Banister 49
Birley *ats.* Royse, 4 Law Rep. (C.P.), 300 248
Bish's Election Case.. 247
Boraston *ats.* Powell, 18 C.B. (N.S.), 183.. 69
Bradford *ats.* Sheppard, 16 C.B. (N.S.) 375 4
Brand *ats.* Hammersmith Railway Company, L.R.; 4 H. of L., 171 14
Brown *ats.* Stockton, 9 H. of L. Ca., 250.. 14
Brown *v.* Gugy, 2 M.P.C.C. (N.S.), 341.. 69
Buckley *v.* Gross, 3 Best & S., 570 48

C.

Cardwell *ats.* O'Grady, Exchequer in Ireland (1872) 37
"Casks of Brandy," 3 Hagg. Ad., 290 48
Chambers *ats.* Attorney-General, 4 de G. & J., 55 & 206 7
Churchward *v.* The Queen, 1 L.R.; Q.B.; 200 & 209 37
Coles *ats.* Wimbledon, &c., Conservators (1872).. 163
Cowing *v.* Secretary of State for War, M.R. (1877) 37, 119

D.

Dickson *v.* Peel, 3 F. & Fin., 527 38
Doe & Legh *v.* Roe, 8 Mee. & Wel., 582 .. .. 6, 37
Dumfries Election Case 247
Dundee *ats.* Smart, 8 Bro. P.C. (Tomlin's Edition, 1803), 199.. 7
Dunlop *ats.* Todd, 2 Robinson's Scotch Appeals, 232 7

E.

Elliott *v.* North-Eastern Railway Company, 10 H. of L. Ca., 365 11
Ely, Isle of, Case, temp., Lord Coke 8

F.

Felkin *v.* Herbert, 1 Drew. & Sm., 609 .. .. 5, 37, 38
Forest *v.* Overseers of Greenwich, 8 Ell. & Bl., 897 49
Froggatt *ats.* Wakly, 2 Hurls. & Colt., 699 69

G.

Galloway *v.* Corporation of London, 2 De G. J. & S., 224 14
Gifford *v.* Yarborough, 5 Bing., 163 7
Grant *v.* Secretary of State for India, 2 C.P.D., 463 37
Great Eastern Railway Company *ats.* United Land Company, 10 L.R. (Chan. App.), 591 54
Great Northern Railway Company *ats.* Lawrence, 16 O.B. Rep., 654 14
Great Southern and Western Railway Company (Ireland) *ats.* Robertson .. 204
Green *ats.* Merry, 7 Mee & Wel., 631 48
Greenwich, Overseers of, *ats.* Forest, 8 Ell. & B., 897 49
Gross *ats.* Buckley, 3 Best & Sm., 570 48
Gugy *ats.* Brown, 2 M.P.C.C. (N.S.), 341 69

H.

	PAGE
Hammersmith Railway Company *v.* Brand, L.R.; 4 H. of L., 171	14
Hart *ats.* Kenyon, 6 B. & S., 249	49
Hawley *v.* Steele, 6 L.R.; Chancery, 525..	14
Herbert *ats.* Felkin, 1 Drew & Sm., 609	5, 37, 38
Hill *v.* Metropolitan Asylum, 4 Q.B. Div., 445	15
Hudson *v.* Tabor, 1 Q.B. Div., 225	7

I.

Ibbotson *v.* Peat, 3 Hurls. & Colt., 649	14
India, Secretary of State for, *ats.* Grant, 2 C.P.D, 463..	37
Isle of Ely Case, temp., Lord Coke	8

K.

Kerzon *v.* Hart, 6 B. & S., 249	49
Keyn *ats.* Reg., 2 Exch. Div., 81	48
King, *see* "Rex."	
King *v.* Pease, 4 Adol. & Ell., 30	14
„ *v.* Stewart, 8 Ell. & Black, 360	35
Kirk *v.* Reg., 14 Eq. Ca., 565	37

L.

Lawrence *v.* G. R. R. Co., 16 Q.B. Rep., 654	14
Laws, *Ex parte*, 1 Exch. Cas., 448, 449, 451	19, 20, 22
Leominster Election Case	247
Lewis, Sir G., *ats.* Earl of Suffolk, 1 Hem. & Mil., 369	37, 68
London, Corporation of, *ats.* Galloway, 2 De G. J. & S., 224	14
London Election Case	247

M.

Maynard's Trusts, 7 Jur. (N.S), 232	26
Meade & War Department *ats.* Reg., Q.B. (1864)	137
Merry *v.* Green, 7 Mee. & Wel. 631	48
Metropolitan Asylum *ats.* Hill, 4 Q.B. Div., 445	15

N.

National Rifle Association *v.* Inhabitants of Wimbledon (1879)	159
Newall & Elliott, Re, 4 C.B. (N.S.), 268	207
North-Eastern Railway Company *ats.* Elliot, 10 H. of L. Ca., 365	11
Nugent *ats.* Weyms' Corporation, 6 Best & Smith, 34	156

O.

O'Grady *v.* Cardwell, Exchequer in Ireland (1872)	37

P.

Pearce *ats.* Thompson, 1 Bro. & Bin., 23	248
Pease *ats.* King, 4 Adol. & Ell., 30	14
Peats *ats.* Ibbotson, 3 Hurls. & Colt., 649	14
Peel *ats.* Dickson, 3 Fos. & Fin., 527	38
Perkins *ats.* Westover	156
Pickering *v.* Rudd, 4 Camp., 220	49
Powell *v.* Boraston, 18 C.B. (N.S.), 183	69
Pratt *ats.* Reg., 4 B. & S., 867	49

Q.

PAGE
Queen, The, *vide* "Reg."
Queen's College *ats.* Warwick, 3 Eq., 683 119

R.

Raphael *v.* Wigram, MS. Cases, Vol. ii., p. 377 49
Reg. *v.* Beadle, 7 Ell. & Blac., 496 38
„ *ats.* Churchward, 1 L.R.; Q.B., 200 & 209.. 37
„ *v.* Commissioners of Woods, 15 Q.B. Rep., 774 18
„ *v.* Keyn, 2 Exch. Div. 81 48
„ *v.* Kirk, 14 Eq. Ca., 565 37
„ *v.* Pratt, 4 B. & S., 867 49
„ *ats.* Thomas, 10 L.R.; Q.B. 30 37
„ *v.* War Department & Meade, Q.B. (1864) 137
Rex *v.* Pease, 4 Adol. & Ell., 30 14
„ *v.* Stewart, 8 Ell. & Black, 360 35
„ *v.* Yarborough, 3 B. & A., 91 7
Roe *ats.* Doe and Legh, 8 Mee. & Wel., 582 .. .. 6, 37
Robertson *v.* Great Southern and Western Railway (Ireland) 204
Rothschild, Baron, Election Case 247
Royse *v.* Birley, 4 L.R. (C.P.), 300 248
Rudd *ats.* Pickering, 4 Camp., 220 49

S.

Secretary of State for India *ats.* Grant, 2 C.P.D., 463 37
„ „ War *ats.* Cowing (1877) 37, 119
Sheppard *v.* Bradford, 16 C.B. (N.S.), 375 4
Smart *v.* Dundee, 8 Bro. P.C. (Tomlin's Edition, 1803), 199 7
Steele *ats.* Hawley, 6 L.R. (Chancery), 525 14
Stewart *ats.* Rex, 8 Ell. & Black, 360 35
Stockton *v.* Brown, 9 H. of L. Ca., 250 14
Suffolk, Earl of, *v.* Sir G. Lewis, 1. Hem. & Mil., 369 .. .. .. 37, 68
Surrey Rifle Association (Wimbledon, &c., Conservators *v.* Coles) 163

T.

Tabor *ats.* Hudson, 1 Q.B. Div., 225 7
Taff Railway Company *ats.* Vaughan, 6 Jur. (N.S.), 899 14
Thomas *v.* Reg., 10 L.R.; Q.B., 30 37
Thompson *v.* Pearce, 1 Brod. & Bin., 23 248
Thurburn's Case, 1 Den. Cr. Ca., 395 48
Todd *v.* Dunlop, 2 Robinson's Scotch Appeals, 232 7
Tomline, *Ex parte*, MS. (1876), Vol. xxxiv. 19, 21
„ *ats.* Attorney-General (1879) 9

U.

United Land Company *v.* Great Eastern Railway Company, 10 L.R. (Chan. App.), 591 54

V.

Vaughan *v.* Taff Railway Company, 6 Jur. (N.S.), 899 14

W.

Wakly *v.* Froggatt, 2 Hurl. & Colt., 699 69
Warwick *v.* Queen's College, 3 Eq., 683 119
Waterlow, Sir S., Election Case 247
Wellington, Duke of, *Ex parte*, 33 Bea. Rep., 13 26
Westover *v.* Perkins 156
Weyms, Corporation of, *v.* Nugent, 6 Best & Smith, 34 156

PAGE
Wigram *ats.* Raphael, M.S. Ca., Vol. ii., p. 377 49
Wimbledon, Inhabitants of, *ats.* National Rifle Association (1879) 159
„ &c., Conservators *v.* Coles (1872) 163
Woods, Commissioners of, *ats.* Reg., 15 Q.B. Rep., 774.. 18

Y.

Yarborough *ats.* Rex., 3 B. & A., 91 7
„ *ats.* Gifford, 5 Bing., 163 7

REFERENCES TO VOLUMES OF CASES AND OPINIONS.

[NOTE.—*The page numbers shown in italics refer to pages in the "Case and Opinion Books"; the page numbers in ordinary figures denote pages in this work.*]

Page of Case and Opinion Book.	Page of Work.	Page of Case and Opinion Book.	Page of Work.	Page of Case and Opinion Book.	Page of Work.
Book B.		**Book F.**		**Book J.**	
74	23	*250*	15	*236*	20
Book D.		*35*	4	*294*	35
204	19	*93*	119		
214	20			**Book K.**	
22 and 480 ..	34	**Book G.**			
83	37			*25*	7
502	37	*9*	43	*135, 136* ..	37
81, 82 ..	38	*341*	119	*51*	40
508	41			*243*	14
37	44			*213*	119
218	44	**Book I.**			
Book E.				**Book L.**	
140	15	*2*	135		
433	35	*566*	34	*448*	35
455a	41	*58*	37	*19*	119
453	41	*836*	40		
139	49	*902*	119		
353	119				

PREFACE.

THE Statute Law relating to the late Ordnance Board was printed in the year 1725, and again in 1774, but since the latter date no similar work has been issued.

The present collection of Statutes has been made at the instance of the Inspector-General of Fortifications, with the sanction of the Secretary of State. It is intended to embrace all the Statute Law now in force relating to "The defence of the United Kingdom," together with references in the notes to the Leading Cases and Law Officers' reports which have come under my cognizance since I have been officially connected with the War Department.

With the exception of a temporary Act relating to Bermuda, the collection does not include any Colonial Statute or Ordnance.

C. M. C.

WAR OFFICE,
22nd December 1879.

THE

STATUTORY POWERS OF HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE WAR DEPARTMENT.

[*Statutory Definitions of the Secretary of State for the War Department.*

"Her Majesty's Principal Secretary of State for the War Department" shall mean,

"The Principal Secretary to whom Her Majesty shall see fit to entrust the Seals of the War Department."[1]

"Or such one of Her Majesty's Principal Secretaries of State as may for the time being be administering the business of the War Department."[2]

The Secretary of State for War means "Her Majesty's Principal Secretary of State for the time being for the War Department.[3]]

ORDNANCE BRANCH.

PAGE

A. SECRETARY OF STATE FOR THE WAR DEPARTMENT ... 3

B. SURVEYOR-GENERAL OF THE ORDNANCE 219

A. SECRETARY OF STATE FOR THE WAR DEPARTMENT.

I. AS TO LANDS AND CONTRACTS.

1. As the Successor of the late Board of Ordnance.[4]

(*a.*)—THE POWERS THEREOF TRANSFERred.

nce
l Trans-
ct, 1855,

Powers, &c., vested in the Principal Officers of the Ordnance to be transferred to Her Majesty's Secretary of State for the War Department.

ON the 14th August 1855,[5] all the powers, authorities, rights and privileges whatsoever which, by virtue of any Act or Acts of Parliament, or of any other law, custom, or usage whatsoever, had been, or were at any time, vested in, or exercised, or exerciseable,

[1] Defence Act, 1842; 22 Vict., c. 12, sec. 8; 23 & 24 Vict., c. 112, sec. 47; 22 Vict., c. 13, sec. 13; 25 & 26 Vict., c. 33, sec. 5; 26 Vict., c. 12, sec. 1; 26 & 27 Vict., c. 54, sec. 3, and c. 57, sec. 2; 30 & 31 Vict., c. 98, sec. 3; 30 & 31 Vict., c. 140, sec. 2; 31 & 32 Vict., c. 60, sec. 2; 37 & 38 Vict., c. 92, sec. 5.

[2] 35 & 36 Vict., c. 68, sec. 16 (see 18 & 19 Vict., c. 117, sec. 5).

[3] 38 & 39 Vict., c. 69, sec. 2.

[4] The History of the Ordnance Department is given in "The Military Forces of the Crown," vol. ii., pp. 238 to 251. This work is afterwards referred to by volume and page *only*.

[5] The 5 and 6 Vict., c. 94, is "The Defence Act, 1842." The 18 and 19 Vict., c. 117, is "The Ordnance Board Transfer Act, 1855." The 23 and 24 Vict., c. 112, is "The Defence Act, 1860."

by the principal officers of Her Majesty's Ordnance, or any of them were transferred to and vested in and exerciseable by Her Majesty's Principal Secretary of State for the time being to whom Her Majesty shall think fit to intrust the seals of the War Department, and such Principal Secretary of State shall be entitled to the same exemption from personal responsibility as the said principal officers were entitled to.[1]

(*b.*)—THE CONTRACTS AND RIGHTS THEREOF TRANSFERRED.

Contracts, &c., made by the Principal Officers relating to the Public Service to be enforced by such Secretary of State.

On the 14th August 1855, all contracts, covenants, and agreements theretofore made or entered into by any person or persons whomsoever with the said principal officers of the Ordnance, or any person or persons on their behalf, as to or concerning any lands, hereditaments, estates, and property vested in or agreed to be purchased by the said principal officers, or in anywise relating to the "public service,"[2] were to be deemed and taken to have been made or entered into with Her Majesty's Principal Secretary of State for the War Department, and to be executed and enforced by him in like manner as if he had originally been party thereto instead of the said principal officers of the Ordnance. Ordnance Board Transfer Act, 1855, sec. 3.

(*c.*)—CERTAIN LANDS HELD IN TRUST FOR THE CROWN TRANSFERRED.

Lands, &c., purchased for the Service of the Ordnance, and all Buildings, &c., thereon, vested in the Principal Officers.

By the Defence Act, 1842 (sec. 5), all messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments (save and except as hereinafter is mentioned) which, prior to the 10th August 1842, had been set apart for the use and service, or placed under the charge of the Ordnance or late Barrack Department,[3] or which had been set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or of Her royal predecessors, for the use and service of the said departments, or for military defences, or which had been held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person[4] or persons in trust for Her Majesty or Her royal predecessors, or Her or their heirs or successors, for the use and service of the said departments, or for the defence and security of the realm, either in fee or for any life or lives, or otherwise howsoever. Defence Act, 1842, sec. 5.

And all erections and buildings which then were or which

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[1] See sec. 37 of Defence Act, 1842, and Note, p. 37.

[2] These words would let in a wide range of objects, see "Sheppard *v.* Bradford," 16 C.B., (N.S.) 375.

[3] The History of this Department, from 1792, is given in vol. i., pp. 240 to 252, as to the same Department in Ireland, p. 227, *ib.*, and see p. 52, *post.*

[4] It is not an unusual title to Ordnance lands to find them vested in a military officer, as taking or holding for the Crown (see 44 Geo. III., cap. 95, sec. 4, and F., p. 35). The section was intended to cover all these irregularities, and to vest all such lands acquired by public money in the Ordnance Board.

should be erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging, were vested—

In the principal officers of Her Majesty's Ordnance for the time being, and their successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in trust for Her Majesty, Her heirs and successors, for the service of the said Ordnance Department, or for such other public service or services as Her said Majesty, Her heirs or successors, shall from time to time by any Order in Council be pleased to direct.[1]

Ordnance Board Transfer Act, 1855, sec. 2.

All lands, &c., vested in such Officers vested in the said Secretary of State.

By the Ordnance Board Transfer Act, 1855, all the lands vested in the principal officers of the Ordnance were transferred to and vested in the Principal Secretary of State for the time being on behalf of Her Majesty; and the Act declares that when and so often as the said Principal Secretary of State, and any succeeding Principal Secretary of State to whom Her Majesty shall have intrusted the seals of the War Department, shall cease to hold such office, the lands shall by virtue of the Act be transferred to and vested in his successor in the said office, immediately upon his receiving the seals of the said Department, absolutely;

And the said lands, hereditaments, estates, and property thereby vested and thereafter to be vested in the said Principal Secretary of State and his successors shall, as to such of them as were or shall have been purchased, or are or shall be held for an estate of inheritance in fee simple, be so vested in such Principal Secretary of State and his successors in the same manner as if the fee simple thereof had been originally conveyed to such Principal Secretary of State as a corporation sole[2] and his successors.

As to all lands, hereditaments, and property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments, and property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments, and property had been originally conveyed, surrendered, demised, or otherwise assured to such Principal Secretary of State as a corporation sole, and his successors, for all the existing estates or interests therein respectively, and so from time to time; nevertheless, with respect to all lands or hereditaments of copyhold or customary tenure, the same shall, for the purpose mentioned in the eighth section of the Defence Act, remain vested in or be surrendered to some person to be approved of or named by the Principal Secretary of State for the time being as tenant thereof.

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[1] See paragraphs (*x*) and (*y*) *post.*, pp. 44–5.

[2] It is in this character that he sues in the Supreme Courts, not in his name as a private individual. See the argument of the late Mr. Wickens in "Felkin *v.* Herbert," and notes on paragraph (*t*), p. 37, *post.*

(*d.*) LANDS EXCEPTED FROM THE OPERATION OF SEC. 5 OF THE DEFENCE ACT, 1842.

(1.) *Those belonging to the hereditary possessions of the Crown or Duchy of Lancaster.*

Act not to vest property belonging to Her Majesty in the Officers of the Ordnance; and p. 17, *post.*

Defence Act, 1842, sec. 39.

Nothing contained in the Act shall vest in the principal officers of Her Majesty's Ordnance in any manner or for any purpose whatsoever, any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments,[1] part or parcel of the hereditary possessions and land revenues of Her Majesty in right of Her Crown or in right of Her Duchy of Lancaster, or to divest, defeat, destroy, lessen, abridge, impair, or in any manner abrogate, diminish, or prejudice the estate, right, title, interest; power, or authority of Her Majesty, Her heirs and successors, in, to, out of, or over any part or parcel of the hereditary possessions or land revenues of Her Crown or of Her Duchy of Lancaster, notwithstanding the same or any part thereof may have been theretofore set apart or may hereafter be permitted to be set apart for the use and service or placed under the charge of the Ordnance or late Barrack Department, or either of such Departments, and notwithstanding the same may have been heretofore or may hereafter be permitted to be set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty, or any of Her royal predecessors, for the use and service of the said Departments or either of them, or for military defences, and notwithstanding the same may have been theretofore or may hereafter be held, used, or occupied for the use and service of the said Departments, or either of them, or for the defence and security of the realm, or otherwise howsoever, but the estate, right, title, interest, power, and authority of Her Majesty, Her heirs and successors, in and to all and every parts and part of the hereditary possessions and land revenues of Her Crown and of Her Duchy of Lancaster, shall remain, continue, and be good, valid, and effectual, and in full force, to all intents and purposes, anything in the Act to the contrary thereof in anywise notwithstanding.

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[1] The property managed and held formerly by the late Ordnance Board and now by the War Department consists of two classes—first, that which was part of the hereditary revenues or acquired by the Crown with public money prior to its specific appropriation to the "public" service in William and Mary's reign; and secondly, that acquired after such appropriation. In the first class the beneficial interest is in the Office of Woods, and in the second in the Exchequer whenever the property, being no longer needed by the Department, is sold (vol. i., p. 9). An instance of this arose in 1856, when the Hull Citadel was abandoned by the War Department as a work of defence and handed over to the Office of Woods to be sold for Her Majesty. Each of these sections are framed in different language, and they were probably inserted having regard to the discussion which had arisen in the Court of Exchequer in "Doe and Legh *v.* Roe," 8 Mee. and Wel., 582. As to the adoption of legal proceedings in reference thereto, see Note on sec. 34, p. 37, *post.*

(2.) *Lands in charge of the Office of Woods.*[1]

)efence Act, 842, sec. 40.

Nothing contained in the Act shall repeal, alter, or affect the Acts passed in the 10 Geo. IV. (cap. 50) or 2 and 3 Will. IV. (cap. 1), or any of the clauses or provisions in the said Acts respectively contained.[2]

Nothing in this Act to repeal or alter 10 Geo. IV., cap. 50, or 2 & 3 Will. IV., cap. 1.

[1] On the 1st January 1867 all the foreshore then belonging to the Crown was transferred to the Board of Trade, except the foreshore in front of or immediately adjacent to any lands whereof or whereto Her Majesty, or any person in trust for her, was seized, or which lands were the property of the War Department, or in its possession. Therefore, whenever the Department needs an acquisition of foreshore in front or adjacent to Crown lands, such must be made from the Office of Woods by purchase and conveyance. Where the shore lies opposite to War Department land acquired from private owners the question may be—assuming the shore to be vested in such owner when the land was conveyed—whether the shore and its accretions belong to the Department or to the private owner. "It appears" (wrote Mr. Ramadge) "to be a general rule, or rather custom, that the owner of land bounded by the sea is entitled to the gradual and from time to time imperceptible increments, if any thereto by way of alluvion from the sea (*see* 'Rex. *v.* Yarborough,' 3 B. & A., 91; 'Gifford *v.* Yarborough,' 5 Bing., 163; 'Attorney-General *v.* Chambers,' 4 De G. & J., 55); but it is not clear that this custom always applies to a case where the land and the shore thereof originally belonged to one owner who has granted away merely a definite part of the land up to but not including the shore (*see* 'Todd *v.* Dunlop,' 2 Robinson's Scotch Appeals, 232, and 'Smart *v.* Dundee,' 8 Bro. P. C., Tomlin's Edit. 1803, p. 199, referred to in the note to p. 111, of Hall on the 'Seashore,' by Loveland, Edit. 1875); and it would appear from Lord Hale's 'Treatise De Jure Maris,' Hargrave's Edit., p. 28, that this custom should only obtain where the increment is from time to time 'so insensible and indiscernible by any limits or marks that it cannot be known,' and that it does not or should not obtain in a case where 'by any marks or measures it can be known what is so gained,' and from the Lord Chancellor's judgment in the before-mentioned case of 'Attorney-General *v.* Chambers,' it would appear that this was his opinion.

)9 & 30 Vict., ap. 62, sec. 0.

., p. 25.

"Accordingly it does not appear to me that the custom can apply to a case where the owner of land and the shore thereof grants away a definitely marked out plot of ground, either consisting wholly of land or partly of land and partly of shore. In such a case, if the plot does not actually come up to the shore, there can be no increment by way of alluvion thereto, and if it is conterminous with or includes part of the shore, it appears to me that the grantee must still be confined to his marked-out plot of ground, and cannot, as against his grantor, claim any alluvion outside his plot.

"And here I may mention, that the shore properly so called and as distinguished from the ordinarily dry land must be taken as commencing with the line of medium high tides, between the springs and neaps (see the case of 'Attorney-General *v.* Chambers,' in 4 De G. M. & G., p. 206."

[2] Wherever the Department owns a sea frontage or a wall upon it the rearward landowners are too ready to press upon its officers their duty, and upon the public, as represented by them, the obligation to uphold the sea wall or frontage to protect the rearward lands from the inundation of the sea. As a general rule, no such legal obligation, which can only be upheld by statute or prescription, exists against the Department.

This subject recently came under the consideration of the Court of Queen's Bench, in the case of "Hudson *v.* Tabor," 1 Queen's Bench Division, p. 225, when the Lord Chief Justice Cockburn explained the law:—"The grounds on which the liability of the defendant is sought to be established are, first, prescription; second, the alleged liability at common law of every owner of land fronting the sea, or any estuary or creek liable to be flooded by the sea, to maintain a sea-wall for the purpose of keeping out the sea water from the adjoining lands.

"That an owner of land fronting the sea may be bound by prescription to maintain a bank or wall to keep out the sea water for the protection of the owner of the adjoining land, is abundantly shown by the authorities. But whether such a prescriptive obligation exists on the part of the frontager to maintain the sea-wall for the protection of the adjoining owners as is here contended for must, of course, depend on the evidence adduced in the cause; and we are called upon to say whether there is sufficient evidence to warrant the finding this issue for the plaintiff. Now the evidence amounts to no more than this, namely, that each frontager has

(3.) *Lands belonging to the Duchy of Cornwall.*

Act not to vest any property belonging to the Prince of Wales in the Officers of the Ordnance.

Nothing in the Act shall vest in the principal officers of Her Majesty's Ordnance for the time being any estate or interest in

Defence 1842, se

always maintained the wall in front of his own land, while no one has thought it necessary to protect himself against the possible consequences of the neighbours' neglect, by erecting a bank or wall to keep out the water which might come to him from the neighbours' land, if the latter neglected to maintain the wall and his land became flooded in consequence.

"In our opinion this evidence, when taken in connection with the fact that what each owner has done has been no more than was necessary for his own protection, or than what he would have done along the whole of the shore had he been the owner of the whole of the land fronting the water in question, is insufficient to support the alleged prescription. The case is manifestly very different from what it would have been if the wall maintained by the defendant had been on the plaintiff's land instead of his own. The fact that something which a man does for his own benefit may incidentally benefit his neighbours is not, we think, sufficient to warrant the inference that he has bound himself to continue to do the thing in question, so as to render him liable in damages if he omits to do it. In the absence of all other evidence of liability, it appears to us more reasonable to refer what has been done to a regard to the proprietor's own interest than to any obligation he has taken upon himself towards another. Nor will the length of time during which the given state of things may have continued add anything to the force of the reasoning. The motive for maintaining the wall remaining the same throughout, will equally account for the fact and rebut the presumption of prescriptive liability which might otherwise arise. It is said, indeed, that as it was for the common benefit of all that each owner should make good and maintain the wall fronting his own land, that so the water might be kept out from the lands of all, it is reasonable to infer that from early times an arrangement had been come to by all that each man should make and maintain his wall for the common benefit of all; and that out of this compact, acted upon and matured by time, the prescription in question has arisen. But the assumption here made, though it might well explain the prescription if there were any evidence of the latter, is altogether speculative, and, it is further to be observed, assumes the existence of the prescription of which the proof appears to us to fail. If, indeed, there was any evidence of the claim of one owner to have the wall of another kept up for his benefit having been asserted adversely, and of such claim having been acquiesced in and submitted to, the case would be different. But no such evidence was offered. And though it is true that each owner has always had the benefit resulting from the wall of his neighbours, the presumption of an easement having been acquired, which otherwise might thence arise, becomes neutralized by the opposite presumption that the wall, which was absolutely essential to the safety of the owner maintaining it, was kept up by the latter with a view to his own immediate interest alone.

"Nor does it appear to us that the omission of the frontage owners to adopt measures to protect themselves against the possible consequences of the neglect of their neighbours to keep up their walls adds materially to the strength of the argument in favour of prescription, the probability being that each owner has naturally relied on his neighbours doing that which their own interest, and a regard to the safety of their own property, obviously required. Under these circumstances it appears to us that the facts do not warrant the inference of a prescriptive obligation to keep up the wall for the benefit of the adjoining occupiers.

"But it is said that independently of prescription every owner of land fronting the sea, and liable to be overflowed by it, is at common law bound to keep out the sea for the protection of the adjoining owners as well as his own, and is, the matter being one of public concern, liable to make good any damage which may arise to them from his neglect to fulfil this obligation. But for this position, no sufficient authority is, as it appears to us, to be found."

Having examined the early cases cited as authority for this Common Law obligation his lordship proceeded thus:—"Callis, it is true, shows also (supported herein by the authority of Lord Coke in the case of the 'Isle of Ely' (1) that from a very early period, and prior to any of the Statutes of Sewers, the king, who by the prerogative of the Crown had power to see to the defences of the realm, issued on more than one occasion, commissions to enquire into the state of the sea-walls and other defences against the sea in particular districts, and where such sea-walls or other works were found defective, to order their repair and to make ordinances for their future maintenance, assessing to the expense of the work, not only the party to

p. 233.

any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments belonging to His Royal Highness Albert Edward, Prince of Wales and Duke of Cornwall, or other the personage who may hereafter for the time being be entitled to the revenues of the Duchy of Cornwall in right or in respect of the said Duchy, other than or different from the estate and interest under or by virtue of which the principal officers for the time being of Her Majesty's Ordnance held the same at the time of the passing of the Act, and that nothing in the Act contained shall affect, alter, prejudice, or derogate from the estate, right, title, interests, privileges, or authority of His said Royal Highness, or other the personage who may for the time being be entitled to the revenues of the Duchy of Cornwall in right or in respect of the said Duchy, or the possessions thereof, nor at any time be admitted in any Court of Law or Equity, or otherwise construed, to alter or affect in any manner the tenure upon which any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, were previously to the passing of the Act held or set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or of Her Royal Predecessors, for the use and service of the Ordnance or late Barrack Department, or for the defence or security of the realm, nor to alter or affect in any manner whatever such estate, right, title, interest, or authority of His said Royal Highness or other the personage aforesaid in right or in respect of His or Her said Duchy of Cornwall, or the possessions thereof.

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whom the land fronting the sea belonged, but all who derived benefit from the work. The forms of such commissions are to be found in Fitzh. Nat. Brev., p. 113.

"The statutes relating to sewers, and authorizing the issuing of such commissions, beginning with 6 Henry 6, cap. 5, were, in fact, only confirmatory of the common law, except in so far as they enlarged the powers of the commissioners who were empowered by them to order the construction of new works as well as the repairs of ancient ones. Under these commissions every one is to contribute who may receive benefit or suffer loss—obviously a very different thing from throwing the whole burden on the frontager, and making him liable for all the damage that may result from his omission to keep up the sea-wall.

"The equitable principle on which the assessment under such a commission is based is in itself a strong argument against the position that the frontager is liable at common law. He may have only a narrow slip of land of comparatively little value, while behind him may be a proprietor having much more land of greater value lying on the same or a lower level, and liable to be overflowed if the sea-wall is imperfect. It is obvious that the last owner ought, to some extent at least, to bear his share of the cost of maintaining the defences against the sea.

"We think, therefore, that the fact, that the owner of land fronting the sea might be made liable under a commission issued by virtue of the king's prerogative, by no means tends to show that independently of a royal commission such liability existed at common law, and we see nothing to warrant our holding it to exist. The proper remedy in such a case as this is to procure the issuing of a commission in which by an equitable adjustment the interests of all parties may be secured. Our judgment will therefore be for the defendant."

This judgment was supported on Appeal to the Court of Error (see 2 Queen's Bench Division, p. 290). See also Attorney General *v.* Tomline, 19th May 1879, Mr. Justice Fry's judgment.

2. As to the Acquisition, &c., of Lands and Works.

(*a.*) To be vested in the Principal Secretary.

Lands to be hereafter taken, &c. to be vested in the same manner.

That from and after the setting apart or placing under charge or purchase and conveyance, grant or demise thereof,— Defence Act, 1842, sec. 6; and Ordnance Board Transfer Act, 1855, sec. 5.

All messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall at any time or times hereafter be set apart for the use and service or placed under the charge of the Ordnance or late Barrack Department, or which shall be hereafter set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or Her royal predecessors, for the use and service of the said departments, or for military defences, or which shall be hereafter held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person or persons in trust for Her Majesty or Her royal predecessors, or Her or their heirs or successors, for the use and service of the said departments, or for the defence and security of the realm, and all erections and buildings which shall then or which may thereafter be erected and built thereon with the rights, members, easements, and appurtenances to the same respectively belonging.

Shall be and become and remain and continue vested in Her Majesty's Principal Secretary of State for the War Department for the time being, and his successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments,

In trust for Her Majesty, Her heirs and successors, for the service of the said Ordnance Department, or for such other public service or services as Her said Majesty, Her heirs or successors, shall from time to time, by any Order in Council, be pleased to direct.

(*b.*) As to Contracts and Conveyances.

Such Secretary of State to be described in conveyances, &c. as Her Majesty's Principal Secretary of State for the War Department.

In every contract, conveyance, surrender, lease, or other assurance of any lands, hereditaments, estates, or property, with, unto, or by the Principal Secretary of State for the time being, and in every other deed or instrument relating to any lands, hereditaments, estates, or property, or in anywise to the public service, to which the Principal Secretary of State for the time being shall be or shall be intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's Principal Secretary of State for the War Department," without naming him; and every such contract, conveyance, surrender, lease, assurance, deed, or instrument may be executed by such Principal Secretary of State, or by any other of Her Majesty's Principal Secretaries of State for the time being, by signing his name thereto, and if the instrument so executed be Ordnance Board Transfer Act, 1855, sec. 5.

in the form of a deed by setting or affixing a seal thereto and delivering the same as his deed;

And whenever any contract, conveyance, surrender, lease, assurance, deed, or instrument shall be executed by any other Principal Secretary of State than the Principal Secretary of State for the War Department the Principal Secretary of State so executing the same shall for that time and on that occasion, and for the purposes thereof, be deemed to be the Principal Secretary of State for the War Department.

(c.) A STATUTORY FORM OF CONVEYANCE MAY BE USED.

Conveyances to the Secretary of State for War of land in England and Ireland, as in the form "A" in the Appendix hereto.

3 Vict., c. 12, s. 2. Conveyances of land[1] in England and Ireland to be purchased by Her Majesty's Principal Secretary of State for the War Department may be according to the form "A" in the Appendix,[2] or as near thereto as the circumstances of the case admit, and all conveyances so made shall be effectual to vest the land thereby conveyed in the said Secretary of State and his successors, and shall operate to bar and destroy all such estates tail, and other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever of and in the land comprised in such conveyances as have been purchased or compensated for by the consideration given on the purchase; but this enactment shall not in anywise interfere with or affect section eight of the Defence Act, 1842.

Conveyances to the Secretary of State for War of land in Scotland, as in the form "B" in the Appendix hereto.

Ibid, sec. 3. Feus and conveyances of lands and heritages in Scotland to be purchased by the said Secretary of State may be according to the form "B" in the Appendix hereto,[3] or as near thereto as the circumstances of the case admit, which feus and conveyances being duly executed and being registered in the particular register of sasines kept for the county, burgh, or district in which the lands and heritages are locally situated, or in the general register of sasines for Scotland kept at Edinburgh, within sixty days from the last date thereof, which the respective keepers of the said registers are hereby authorized and required to do, shall give and constitute a good and undoubted right, and complete and valid feudal title in all time coming, to the said Secretary of State and his successors, to the lands and heritages therein described or referred to and intended to be thereby conveyed, any law or custom to the contrary notwithstanding: Provided always, that it shall not be necessary for the said Secretary of State to record in any register of sasines any feus or conveyances in their favour which shall contain a procuratory of resignation or precept of sasine, or which may be completed by infeftment; and the title of the said Secretary of State under such last-mentioned feus or conveyances shall be regulated by the ordinary law of Scotland until the said feus or conveyances or the instruments of sasine thereon shall have been recorded in

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[1] As to the construction of a grant or conveyance of land taken under statutory powers, and for such purposes, see "Elliot *v.* N.E.R.C.," 10 H. of L. Ca. 365.

[2] See Schedule (A.), Appendix 1 } p. 221, *post*.
[3] See Schedule (B.), Appendix 2 }

a register of sasines; provided also, that the rights and titles to be granted in manner herein mentioned in and to any lands and heritages in Scotland shall, unless otherwise specially provided for, in nowise affect or diminish the right of superiority in the same, which shall remain entire in the person granting such rights and titles; but in the event of such lands and heritages being a part or portion of other lands and heritages held by the same owner under the same titles, the said Secretary of State, his successors and assigns, shall not be liable for any feu duties or casualties to the superiors thereof, or be bound to enter with the said superiors.

(*d.*) AS TO THE VESTING OF LEASEHOLDS.

Terms assigned to attend the inheritance of lands, &c., holden for the Ordnance to remain in same trustees on same terms.

Defence 1842, sec

It shall be lawful for the said Principal Secretary for the time being to convey, surrender, or assign all or any of the hereditaments and premises which shall be vested in him, and to direct all or any of the hereditaments and premises which shall be agreed to be purchased or taken by him, to be conveyed, surrendered, or assigned, to a trustee or trustees, for the use of the War Department, or the defence of the realm, upon the trusts to which the same shall or ought to be subject, in case from any circumstance whatsoever it shall in the judgment of the said Principal Secretary for the time being be expedient so to do.

(*e.*) AS TO THE VESTING OF COPYHOLDS.

On the death of any person now holding copyholds, &c., for the Ordnance, the Secretary to be admitted on payment of customary fines, &c.

Ibid, sec

When and as the person, or in those cases where there shall be more than one the survivor of the persons, in whom any messuages, building, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, of copyhold, customary, or ancient demesne tenure, are vested, shall die, and when any messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, of any such tenure, shall be purchased or taken, the Secretary for the time being of the said Principal Secretary, or any other officer of the War Department, or other person whom the said Principal Secretary shall from time to time appoint, shall be admitted to such messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, except that in the case of any mortgage or security such admittance shall be at the option of the said Principal Secretary; and that on the death of any persons filling or who shall have filled the office of such secretary, or the office of such officer as shall be so appointed, and who shall have been admitted, or of the person who shall have been admitted to any such messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, the secretary for the time being of the said Principal Secretary, or any other officer of the War Department, or other person who shall be from time to time appointed as aforesaid (as the case may be), shall be admitted to such messuages, buildings, castles,

forts, lines, or other fortifications, lands, tenements, or hereditaments; and that on the respective deaths of the person or persons in whom the messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements or hereditaments are vested, and on whose death or deaths a heriot fine, or any other sum or due would be due or payable, and on the death of the secretary or other officer or other person who shall be admitted as aforesaid, the lords and ladies of the manor of which the said premises are respectively holden, and their stewards, shall be entitled (in case no alienation shall have previously taken place) to such heriots, fines, and fees, and sums of money and other dues, as shall be due and payable and of right accustomed upon the death of a tenant and the admission of a new tenant, and as they would have been entitled to in case this Act had not been passed; but nevertheless that such person or persons shall only continue tenant or tenants, and such secretary or officer or other person as aforesaid shall only be admitted for the purpose of ascertaining and preserving to the lord or lady of the manor the right of escheat and all other rights, and for the purpose of performing such services (if any) as ought to be performed, and of determining when the heriots, fines, fees, and sums of money and dues, due or payable on the death of a tenant and the admission of a new tenant, shall become due and payable; and the said messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, as regards the legal estate, and for all purposes of alienation, and for all other purposes, save as aforesaid, shall be and become and continue vested in the said Principal Secretary and his successor for the time being.

(*f.*) As to the Enrolment of Title Deeds.[1]

e Act sec. 31. It shall be lawful for the said Principal Secretary to cause all or any deeds, decrees, evidences, or writings, or other instruments whatsoever, relating to any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, in England or Wales, vested in the said Principal Secretary to be enrolled in the office of the Remembrancer of Her Majesty's Court of Exchequer, or in the High Court of Chancery, and such fees shall be paid for such enrolment as the Lord High Treasurer or the Commissioners of Her Majesty's Treasury shall from time to time appoint, not exceeding such fees as have been used and accustomed to be taken. **For enroln of deeds r lating to lands, &c., England a Wales.**

sec. 32. Any rule or practice requiring deeds to be acknowledged, or requiring an affidavit or declaration to be made of the due execution of any deeds before enrolment, shall not apply to any deed, decree, evidence, or writing, or other instrument whatsoever by the Defence Act, 1842, required to be enrolled in Her Majesty's Courts of Chancery or Exchequer in England or Ireland. **Deeds not required t be acknow ledged, &c**

[1] I have never known of any enrolment having been made.

Office copies of enrolments of such deeds, &c., admissible in evidence.

A copy of the enrolment of every such deed, decree, writing, or other instrument as aforesaid, signed by the proper officer having the custody of such enrolment, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed, decree, writing, or other instrument in all Courts of Law and Equity, and on every other occasion whatsoever shall be of the same force and effect, to all intents and purposes, as such deed, decree, writing, or other instrument would be if the same were respectively produced and shown forth. Defence Act, 1842, sec. 33.

(*g.*) AS TO THE PURCHASE OF LANDS BY AGREEMENT.

Principal Secretary may authorize persons to survey and mark out lands, and treat with owners for the absolute purchase thereof.

It shall be lawful for the Principal Secretary[1] for the time being to enter on, survey, and mark out, or to cause to be *Ibid*, sec. 16.

[1] The Legislature has invested the Secretary of State and his officers with great power, and consequently with great responsibility, by the discretion here entrusted to them, because a roving and yet perpetual authority to take any land or building for any public purpose (save a barrack) may inflict a vast injury upon a neighbourhood or an individual, from which there is no appeal to any court save that of Parliament. In the first place it appears, I think, clear that Parliament having given this statutory power and voted money in supply to the Secretary of State for a particular work or purpose, no court of law would interfere with the exercise of his discretion in selecting the site for it (see "Stockton *v.* Brown," 9 H. of L. C., p. 250, and "Galloway *v.* Corporation of London," 2 De Gex, Jones and Smith, p. 224). Neither would any court give damages against the Crown for using the land or building so acquired, though it was an user prejudicial to the plaintiff (see "King *v.* Pease," 4 Adol. and Ell., 30; "Laurence *v.* Great Northern Railway Company," 16 Q.B. Rep., 654; "Vaughan *v.* Taff Railway Company," 6 Jur., N.S., 899; "Ibbotson *v.* Peat.," 3 Hurls. and Colt., 649; "Hammersmith Railway Company *v.* Brand," L.R., 4 H. of L., 171). In "Hawley *v.* Steele," where the plaintiff filed a bill against the general officer in command at Aldershot to restrain him from using a rifle range acquired under this Act, and for compensation, the Master of the Rolls refused to give relief. He said:—"I take it to be clear that no man is entitled to use his land by allowing others to come upon it and make a noise which is really intolerable to his neighbours, or which, to put it in legal language, materially interferes with their ordinary comfort and use of their dwelling-house; and, therefore, if the defendant had been the owner of this land, and if the persons who caused that noise and vibration had not been troops of the Government, I should have had no hesitation in granting the injunction. . . . . The real question is whether the Legislature has authorized the act to be done. Now, that being so, the two Acts to which my attention has been drawn look very much like authority for that purpose. I am not going primarily to decide the question; it is a question that will be very much considered at the trial, when I shall know a good deal more about the Acts of Parliament, and also something more (although I do not see that it is disputed) as to the reasonableness of the acts done, having regard to the purpose for which this land has been acquired. . . . . Now, putting all the sections together, they seem to me to amount to this—authority to the officers of departments to take, that is, to purchase or acquire, and to use the land so purchased or acquired, including lands then vested in them 'for the purposes of the defence of the realm.' That is a very large word, 'or for military defences, or for the services of the department,' substantially for all reasonable military purposes. That is the effect of the sections, as it appears to me, although I am not now intending finally to decide upon them. Therefore, we have this as the general effect of the Act of Parliament. Lands authorized to be bought vested in the trustee for the Crown to be used for the military purposes of the realm. Now, what does that mean? That must mean to be used for the reasonable purposes, having regard to the nature of the requirements of the military department of the Government; and if that is so, it appears to me that, except in the case of an outrageous departure from all reasonable use, it is not for a court of justice to say what is the reasonable use of land for military requirements, but it is for the departments to say that such land is wanted as a camp for the exercise and instruction, such other land is wanted for a fortress, and Vol. K, p. 243. Vol. 6, L. R. (Chancery) p. 525. Defence Act, 1842, and 19 & 20 Vict. c. 66.

Defence Act, 1842, sec. 16. surveyed and marked out, any lands, buildings, or other hereditaments or easements wanted for the service of the War Department, or for the defence of the realm, or to stop up or divert any public or private footpaths or bridle-roads, and to treat and agree with the owner or owners of such lands, buildings, hereditaments, or easements, or with any person or persons interested therein, either for the absolute purchase thereof, or for the possession or use thereof during such time as the exigence of the public service shall require.

Ibid, sec. 9. It shall be lawful for the said Principal Secretary for the time being from time to time to contract for and purchase, for and on behalf of Her Majesty, Her heirs or successors, any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or to take or purchase any lease of the same which shall in their judgment be desirable to be purchased, for and on behalf of the Ordnance or Barrack Services, or the defence of the realm, upon such terms as the said Principal Secretary shall seem meet, and to enter into any contracts necessary for that purpose.

Principal Secretary may purchase lands, &c., and take leases on behalf of the Crown.

Ibid, sec. 10. It shall be lawful for all bodies politic or corporate,[1] ecclesiastical or civil, and all feoffees or trustees for charitable[2] or

Power given to bodies politic and others to treat.

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such other land is wanted for an arsenal. In other words, I think, the discretion is vested in the Executive Government having authority over military matters. That is, to whichever of these various military purposes for which land may fairly be required, the particular land in question is to be appropriated. It is not for the Judge to say that they have made a bad selection, and they ought to have taken Blackacre for a camp instead of a fort, that they ought to have taken Whiteacre for an arsenal instead of a camp, or that they ought to have taken Greenacre for a camp instead of a fortress. It appears to me that that would be an invasion of the authority of the military department by the Judge if he interfered with such matters, and, therefore, if I find that the military authorities of the country had selected this land as being a proper place for the camp of instruction, I should say that it is for those authorities finally to determine that question, and that all I had to look to would be whether they were using the land in any way except in a reasonable way as a camp of instruction; and here again the Judge must be very careful. As I said before, if it was an outrageous use, outrageous in the sense of it not being past reason, I have no doubt the Court would interfere. I can imagine such a use of land under the name of a camp of instruction, that it would be so entirely opposite to a camp of instruction that the Court would say at once it was a mere subterfuge and not a *bonâ fide* use of the land, but the moment the Court is satisfied that it is a *bonâ fide* use of the land for the purpose of a camp of instruction, it appears to me that the Court's function stops; that it has no right to say that the tents shall be pitched on another piece of land or that targets are to occupy a different piece of land. That is for the military authorities to decide, and that would be their province and not the province of the Court. Then it follows, from all I have said, without any further statutory enactment, that the power so conferred on the military authorities was a legal right to the use of the land for that purpose, although such a use would, without the authority of Parliament, have been illegal. If that is so it is impossible to maintain an action for nuisance."

In concurring in this decision, Baron Pollock said, "It would be extremely difficult to contemplate the use of land for military purposes which did not carry with it the right to fire guns."—Hill *v.* Metropolitan Asylum, 4 Q. B. D., 445.

E., p. 140. [1] Royal burghs in Scotland are authorised by this section to sell their property to the Department irrespective of the provisions of 3 Geo. IV., cap. 91.

[2] Charity trustees can contract with the Secretary of State upon their own authority, and frequently do so. In December 1863, the Law Officers wrote thus:—

F, p. 250. "We think that the Secretary of State has absolute power to contract for the purchase of land from trustees for charity without the sanction of the Court of Chancery or of the Charity Commissioners, and that a conveyance made to him by any such trustees under either of the sections 10 and 17 of the Defence Act, 1842, without such sanction would be valid and indefeasible. It is also clear that so far

other public purposes, and for all tenants for life and tenants in tail, and for the husbands, guardians, trustees, committees, curators, or attornies of such of the owners or proprietors of, or persons interested in any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which have been or may be hereafter agreed to be purchased or taken for the use of the said War Department, as shall be femes covert, infants, lunatics, idiots, or persons beyond the seas, or otherwise incapable of acting for themselves, to contract or agree with the said Principal Secretary for the time being, either for the absolute sale or exchange of any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or sale of any reversion after any estate or estates for lives or years, or for the grant of any lease either for life or lives, or for any term of years certain therein, or for such period as the exigency of the public service shall require, and to convey, surrender, demise, or grant the same accordingly; and all contracts, sales, conveyances, enfranchisements, surrenders, leases, and agreements, which shall be made in pursuance hereof shall be valid and effectual in law to all intents and purposes whatsoever, and shall be a complete bar to all dower and

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as relates to his own power of purchasing, the Secretary of State could not properly sanction or be a party to any application to the High Court of Chancery or to the Charity Commissioners for their confirmation of any such purchase. The question, however, is not whether such confirmation is legally necessary, nor whether the Secretary of State should in any case be a party to seeking it, but whether he ought to object to enter into a contract with any charitable trustees who may be advised not to incur the responsibility of a voluntary sale of property entrusted to them without the sanction of the Court or of the Commissioners, such trustees cannot of course be compelled to enter into any contract at all; and when (as in the present case) they stipulate that the contract which they are willing to make shall be conditional on such confirmation, the Secretary of State may have no option but either to accept that offer or to summon a jury to assess compensation under the compulsory clauses of the Act. In many cases—viz., cases of lunacy, or when an information or other suit is pending in the Court of Chancery—it would be contrary to the duty of persons in a fiduciary position, who are empowered to sell by sections 10 and 17 of the Defence Act, 1842, to exercise that power without first applying to the Great Seal or to the Court of Chancery (as the case may be) for its sanction; and if this were omitted, and if the bargain should afterwards appear to the Court to have been improvident, they might possibly be held liable for any loss which might have resulted therefrom, although the title of the Secretary of State under the Act of Parliament would still be unimpeachable. Parliament has given to such trustees sufficient power to bind themselves by contract, and to sell and convey; but it has not exonerated them under all circumstances from all responsibility for everything which (even without fraud) they may voluntarily do under those powers. In such cases, therefore, although it is not at all necessary for the title of the Secretary of State that the sanction of the Court or of the Commissioners should be obtained, it may still be quite proper and prudent for the trustees to require such sanction for their own protection and indemnity. The Secretary of State need be no party to the application to the Court or to the Commissioners in any such case, but there is not in principle any reason why he should object to its being made by the trustees with whom he may be dealing, or why he should refuse to enter into a contract which is conditional on the part of the trustees on such sanction being obtained, unless he should consider that (having regard to the costs of the application, if by the contract they would fall upon him, or to any delay which it might involve) he might make a better pecuniary bargain or in any other way a better arrangement for the public interest by resorting to his compulsory powers or to any other alternative which might be offered."

claims of dower, estates tail and other estates, rights, titles, trusts, and interests whatsoever.

efence Act, 842, sec. 18.

It shall be lawful for all bodies politic or corporate, ecclesiastical or civil, and all feoffees or trustees for charitable or other public purposes, and for all tenants for life and tenants in tail, and for the husbands, guardians, trustees, committees, curators, or attornies of such of the owners or proprietors of or persons interested in any such lands, buildings, or other hereditaments so surveyed and marked out as shall be femes covert, infants, lunatics, idiots, or persons beyond the seas, or otherwise incapable of acting for themselves, to contract and agree with the said Principal Secretary, either for the absolute sale of such lands, buildings, or other hereditaments, or for the grant of any lease, either for any term of years certain therein, or for such period as the exigence of the public service shall require, and to convey, surrender, demise, or grant the same to such Principal Secretary, in trust for Her Majesty, Her heirs, and successors, accordingly, and all such contracts, sales, conveyances, surrenders, leases, and agreements shall be valid and effectual in law to all intents and purposes whatsoever.

Bodies politic may agree for the sale of lands, &c.

(*h.*) THE DUCHY OF LANCASTER LANDS.

3 and 37 ict., c. 68, c. 7.

The Chancellor and Council for the time being of the Duchy of Lancaster may, if they think fit, from time to time contract and agree with Her Majesty's Principal Secretary of State for the War Department, for the sale of, and may absolutely make sale and dispose of, for such sum or sums of money as to the said Chancellor and Council appear sufficient consideration for the same, any lands or rights belonging to Her Majesty, her heirs or successors, in right of the said duchy, which, for the purposes of the Defence Acts, 1842 and 1860, the said Secretary of State may from time to time deem it expedient to purchase, and such lands or rights may be granted and assured to the said Secretary of State, and the said moneys shall be paid and dealt with, as if the said lands or rights had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

Dealings with lands of the Duchy of Lancaster for the purposes of the Act; and p. 6, *ante*.

(*i.*) SITES FOR BATTERIES ON PIERS AND HARBOURS.

4 and 25 ict., c. 45, c. 20.

The promoters of any harbour constructed under the provisions of any Act, whether local or otherwise, may make, and for Her Majesty's Principal Secretary of State for the War Department may accept a grant either in fee or for a term of years not less than nine hundred and ninety-nine years of any lands, tenements, and hereditaments proper for sites for batteries or fortifications, not exceeding in quantity in any one place what may be sufficient for building and erecting thereon a battery or fortification for the protection of such harbour, and for making a proper or sufficient access or approach thereto, and may enter into any covenant or stipulation with the said Principal Secretary of State and his successors not to build or do any act prejudicial to the said batteries or fortifications on

Power to Secretary of State for War to take and hold land, &c., or batteries, &c.

the land adjacent to the sites so granted as aforesaid, within the line of fire from such batteries or fortifications to be erected thereon, and which sites when conveyed as aforesaid shall be held by the said Principal Secretary and his successors on behalf of Her Majesty.

(*j.*) Militia Barracks and Storehouses.

Power for counties and boroughs to transfer buildings or land to Secretary of State.

The Commissioners of Lieutenancy of the city of London, the justices of any county, riding, division, or liberty of a county (in this section included under the term county), and the council of any municipal borough, may transfer to the Secretary of State, for the purposes of the Military Forces Localization Act, upon such terms and with or without payment of a pecuniary consideration as they think expedient, any barracks, storehouses for arms or ammunition, or other buildings or land held in the case of a county for the public uses or purposes of such county, and in the case of a borough for the public uses or purposes of such borough; and any contracts, grants, or conveyances by or on behalf of the justices of a county may be made in manner provided by the County Property Acts, 1858, 1871. 35 and 36 Vict., c. 68, sec. 10.

Upon a certificate being given by the Secretary of State that any such barrack, storehouse, or other building or land is not required for the purposes of the said Act, the said Commissioners of lieutenancy, justices, or council may sell the same. 36 and 37 Vict., c. 84, sec. 2.

(*k.*) As to the Purchase of Land otherwise than by Agreement.

1. The compulsory powers under the Defence Act, 1842.

In default of treating, or where the parties do not agree, the persons authorized by Her Majesty may require two Justices, &c., to put Her Majesty's Officers in possession.

In case any such bodies or other persons authorized to contract on behalf of themselves or others, or any other person or persons interested in any such lands, buildings, or other hereditaments which shall be so marked out and surveyed as aforesaid, shall for the space of fourteen days next after notice in writing[1] subscribed by or on behalf of the said Principal Secretary shall have been given to the chief officer or officers of Defence Act, 1842, sec. 19.

[1] This notice (see Nos. 3–8, Appendix, p. 222,) to treat, and a claim sent in by the owners, which in an ordinary case might create a contract, does not so bind the Crown. "A private company," said the late Mr. Justice Patteson, "to whom an Act is granted for their profit, differs materially from commissioners appointed under a public Act to do on behalf of the Executive Government certain things for the benefit of the public; and the principle that imposes liabilities upon a private company, as arising in consideration of the statute granted to them, has no application in the case of such public commissioners. There may be reason for holding a notice to treat for a purchase, when given by a private company which has the option of taking land, to be a declaration of their option to take, and a contract of purchase, of which this Court will compel specific performance, making the obligation on such a company reciprocal with the obligation on the land owner. But, in the case of commissioners for the public, having a limited power of taking land provided the required quantity can be obtained for a given sum, a notice to treat for the purchase should be construed to be that which it is; the commissioners cannot ascertain whether the land can be Queen *v.* Commissioners of Woods, 15 Q.B. Rep., 774.

any such body, or to such other persons authorized to contract on behalf of others or interested themselves, as aforesaid, or left at his, her, or their usual place of abode, refuse or decline to treat or agree, or by reason of absence shall be prevented from treating or agreeing with the said Principal Secretary, or shall refuse to accept such sum of money[1] as shall be offered by the said Principal Secretary as the consideration for the absolute purchase of such lands, buildings, or other hereditaments, or such annual rent or sum as shall be offered for the hire thereof, either for a time certain or for such period as the exigence of the public service may require, then and in such case it shall be lawful for the said Principal Secretary to require two or more Justices of the Peace, or three or more Deputy Lieutenants (one of whom shall be a Justice of the Peace), or two or more deputy governors for county, riding, stewartry, city, or place where such lands, buildings, or other hereditaments shall be, to put the said Principal Secretary, or any person appointed by them, into immediate possession of such lands, buildings, or other hereditaments, which such Justices or Deputy Lieutenants, or Deputy Governors are hereby required to do, and shall for that purpose issue their warrants[2] under their hands and seals, commanding possession to be so delivered, and shall also issue their warrants to the Sheriff of the county, riding, stewartry, city, or place wherein such lands, buildings, or hereditaments shall be situate, to summon a jury; and every such Sheriff is hereby authorized and required to summon and return a jury, properly qualified, of the number of twenty-four, and in the manner required by the laws of England, Ireland, and Scotland respectively, who shall meet at some convenient time and place to be mentioned in such summons, out of whom a jury of twelve shall be drawn, in such manner as juries for the trial of issues joined in Her Majesty's Courts at West-

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obtained for a price unless they treat for the purchase. There is a duty under the statute to open the treaty; but it would defeat the intention of the Legislature if the opening of a treaty was held to be the completion of the contract." In August 1860, the Law Officers, upon having this case and a notice to treat given by the War Office, before them, wrote that the notice did not create the relation of vendor and purchaser; "for the certificate of the Lord Lieutenant and warrant of the Treasury are indispensable as preliminaries to the validity of taking any steps compulsorily, and no such certificate or warrant having been granted, the notice to take was wholly inoperative as a foundation by which to take the land adversely."

[1] No sum of money need be inserted in the notice to treat, though a contrary opinion appears at one time to have prevailed. "I am of opinion (wrote the late Mr. Welsby) that the Act does *not* require, in order to entitle the Department to call upon the Justices to put the Secretary of State into possession, that the sum which the Department considers to be the real value of the lands, and are willing to give as such, should be inserted in the notice required by sec. 19; but that *any* sum may be inserted therein; and that if the party after the lapse of 14 days from the service of such notice, refuses to treat or agree, either upon the terms stated in the notice, or upon any terms, the Justices are bound, on the requisition of the Secretary of State, to exercise the ministerial duty of putting him into possession, subject to the value of the lands being thereafter assessed by a jury." 204.

In the taking land under these compulsory powers no costs are recoverable against the Department. *Ex parte* Laws, 1 Exch. Cas. 451, and *ex parte* Tomline, L.S., April 1876, Vol. 34.

[2] Nos. 6 and 7, Appendix, p. 224.

minster and Dublin are drawn by law in England and Ireland respectively, and in such manner as juries are drawn by law for any trial in Scotland; and in case a sufficient number shall not appear, the said Sheriff shall chose others of the by-standers, or that can speedily be procured, being qualified as aforesaid; and the said jurymen may be challenged by the parties on either side, but not the array; and the said Justices, Deputy Lieutenants, or Governors, respectively, may summon witnesses, and adjourn any such meeting if jurymen or witnesses do not attend; and the jury, on hearing any witnesses and evidence that may be produced, shall on their oaths (which oaths, as also the oaths of such witnesses, the said Justices, Deputy Lieutenants, or Governors, respectively, are hereby empowered and required to administer) find the compensation[1] to be paid, either for the absolute purchase of such lands, buildings, or other hereditaments, or for the possession or use thereof, as the case may be.

Barrack sites.

Provided always, that it shall not be lawful for the said Principal Secretary to use any lands, buildings, or hereditaments taken under the compulsory process aforesaid for the barrack service, or to erect any barrack buildings thereon, but this proviso shall not extend to prevent the erection of barracks on land so taken in any fortress or garrison town, or opposite to any fortification, or to prevent any building on any such lands being used as or for barracks.[2] 22 Vict., sec. 4.

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[1] These words came under the consideration of the Court of Exchequer in *ex parte* Laws:—"Undoubtedly," said Chief Baron Pollock, "it is competent for the jury, when they are considering the value of the land, to take into their consideration the character of the compulsory sale. In practice such is the case. It is always the custom with surveyors to make a difference in their estimates between the value of land to be sold in the market, and of that which is to be subject to what is called a compulsory sale. . . . . The jury have no power to include any costs or expenses of the transaction in their verdict. The compensation mentioned in the Act means a compensation for the absolute purchase of the land, that it includes everything which ought to be given to the party in respect of the land itself, and of any damage resulting from severance, or from its particular situation; but that it does not include the expenses to which the party may be put in respect of the purchase. Those expenses are matters for which the Legislature have not provided, and by their direction we must abide." "The real question," said Mr. Baron Rolfe, "is this: Suppose the jury to be assembled, under the presidence of a judge, what direction should he give to them as to the amount of compensation to be awarded by them? Ought the learned judge to say to the jury, 'In estimating that compensation you may take into account the expenses which the owner of the property has incurred in getting it surveyed, and in making proper preparations for the investigation, the expenses of the witnesses and the counsel's fees, and other necessary expenses?' I think that such a direction would *be clearly incorrect*." 1 Exch. 448. *Ib.*, 451.

[2] The meaning of this proviso is not clear, because fortress or garrison towns are few. Assuming a barrack to be injurious to the value of adjacent property, the proviso is intended as a protection, but which any landowner may waive by a voluntary sale, and inflict upon his neighbour this injury. The remedy, such as it is, is not against the compulsory taking, but the subsequent user. Neither the owner nor any adjacent owner has any remedy for restraining the Secretary of State from acquiring sites under the section. When the land has been so taken, any persons who would be injuriously affected by the erection of barracks could by information prevent their erection. It is assumed that the words "fortress or garrison town" must be construed in their strict sense. If so, a town which merely contains barracks or houses in which soldiers live, and which is in no way adapted for defence, is not a "garrison town" in any strict meaning of the expression J., p. 236 D., p. 21

ce Act, sec. 20.

If the said Principal Secretary, or any person interested in the lands, buildings, or other hereditaments so marked out and surveyed, shall be dissatisfied[1] with the verdict of any such jury, it shall be lawful for them, or their Attornies, in England and Ireland, to apply to the Court of Exchequer at Westminster or Dublin respectively in the term next, and in Scotland to apply within fourteen days after the finding any such verdict to the Court of Session in Scotland in time of session, or Lord Ordinary on the bills in the time of vacation, and to suggest to the said Courts or Lord Ordinary respectively that they have reason to be dissatisfied with such verdict, and forthwith give notice thereof to the said Principal Secretary on the one part, or to the party so interested as aforesaid on the other part (as the case may be); and thereupon, in England and Ireland, the proceedings that shall have been had and the verdict of such jury shall be returned into the said Courts of Exchequer respectively, and if it shall appear to the said Courts to be proper, such suggestion shall be entered on such proceedings as aforesaid, and a writ shall thereupon, by rule of such Court, or order of any Judge of such Court, be directed to the Sheriff of the county where such lands, buildings, or other hereditaments shall lie, or, if the same shall lie in two counties, to the sheriff of either of such counties, to summon either a common or special jury, according to the application that shall have been made in that behalf, and as the Court and as such Judge shall allow, and who shall respectively be qualified, according to law, to appear before the said Justice or Justices of Assize or Nisi Prius of that county at the next assizes or sittings of Nisi Prius, if the same shall not happen sooner than twenty-one days after such suggestion, otherwise at the next succeeding assizes or sittings, and the compensation to be paid either for the absolute purchase or for the possession or use of such lands, buildings, or other hereditaments (as the case shall be) shall at such assizes or sittings be ascertained by such jury, in like manner as any damages may be inquired of upon any inquisition or inquiry of damages by any jury before any Judge of Assize or Nisi Prius, and the verdict of such jury shall be returned to the said Court of Exchequer, and shall be final and conclusive; and in Scotland, if it shall appear proper to the said Court of Session or Lord Ordinary, upon such application, so to do, the said Court or Lord Ordinary shall order and direct the sheriff of the county where such lands, buildings, or other hereditaments shall lie, or if the same shall lie in two counties, to the sheriff of either of such counties, to summon another

Jury to summon to value premises

[1] The first step to be taken by either party dissatisfied with the verdict is to obtain a rule *nisi* for the sheriff to bring in the return of the verdict. This rule, when made absolute, is served upon the Crown or claimant, the high sheriff, and the justices. The return of the sheriff is under his hand and seal, and also under those of the two justices. The party complaining having got this return then (upon affidavits) obtains a rule *nisi* from the Court, setting forth the grounds upon which he is dissatisfied with the verdict, and upon argument the rule is either discharged or made absolute. The proceedings are not governed by the Judicature Act, 1873. (Re Tomline *ante*.) (See the forms Nos. 8, 9, 10, and 11, Appendix, p. 226.)

jury in the manner in which juries are summoned in Scotland, properly qualified according to law, to appear before the Lords or Lord of Justiciary at the next circuit, if the same shall not happen sooner than twenty-one days after such application, otherwise at the next succeeding circuit, and the compensation as aforesaid for the lands, buildings, or other hereditaments (as the case shall be) shall at such circuit be ascertained by a jury drawn from the jury summoned as aforesaid in such manner as juries are drawn in Scotland, under the direction of the said Lords or Lord of Justiciary aforesaid, and the verdict of such last-mentioned jury shall be final and conclusive, without being subject to review or challenge of any kind. Provided always that it shall be lawful for the Court that shall have allowed such inquiry, on any application made within four days after the commencement of the succeeding term, or session if in Scotland, to order any new trial in relation thereto.

Jury may ascertain the proportion to be paid out of compensation for land to lessees, &c.

It shall be lawful for any jury impannelled before any Justice of the Peace or Magistrate, or Deputy Lieutenant, or Deputy Governor, or before any Judge of Assize or Nisi Prius, to ascertain the compensation to be paid for any lands, buildings, or other hereditaments under this Act, and they are hereby required to ascertain and settle the proportion to be paid out of such compensation[1] to any persons having any interest as lessees or tenants at will, or otherwise, in any such lands, buildings, or other hereditaments, and the proportion to be paid out of such compensation shall be returned on the verdict. Provided also, that where any such inquiry before any Judge of Assize or Nisi Prius shall be had on the application of any such lessee or tenant at will, or other person having any inferior interest in any such lands, buildings, or other hereditaments, who may have been dissatisfied with the proportion of compensation settled by the jury to be paid in respect of such interest, it shall not be lawful for the jury in any such case to alter the amount of the entire compensation awarded by any former verdict to be paid for such lands, buildings, or other hereditaments, but only the proportion thereof to be paid to the person or persons having separate interests therein; and it

Defence Act, 1842, sec. 21.

[1] The Act recognises only one ownership, and all derivative interests are to be provided for out of the one entire compensation to be allotted as the absolute value of the premises. "What is given," said Mr. Baron Alderson, "by the Act of Parliament (by the words of which we are bound) is the compensation for the absolute purchase of the land. In looking through the Act we see that it is not confined to persons who have the fee simple in themselves, but that it is extended to cases where the title is divided into a variety of interests, immediate and reversionary. Every one of these interests is to have its compensation, in proportion to the original amount found for the absolute purchase of the whole. If a person be tenant for years, at will, for life, or in remainder, he is tenant for years, at will, for life, or in remainder, of an estate which is of the absolute value of so much as the jury shall find. This interest is to be settled by the Court of Exchequer, into which the money (if necessary) is to be paid; and it is to be paid to him out of that *corpus* so ascertained. . . . . The real value of the particular property being ascertained, the tenant for life is to have an interest in the money so given, as to the compensation equivalent to his life interest; and so with respect to the tenant for years or in remainder, each party is to have the same interest in the money as he previously had in the land. The one is a substitute for the other." *Ex parte* Laws, 1 Exch. Rep., p. 449.

shall not be lawful for any jury on any such inquiry as aforesaid had before any Judge of Assize or Nisi Prius, as to any such compensation, on the application of any such officer as aforesaid, in any case in which the whole compensation awarded by them shall be the same as the whole compensation awarded by the former jury, to alter the proportion that shall have been settled by any such former jury, as to any separate interests in any such lands, buildings, or other hereditaments.

Defence Act, 1842, sec. 22. It shall be lawful for the Court or Judge or Lord Ordinary making any such rule or order to require that the party on whose application the same shall be made, shall give such security as shall to such Court, Judge, or Lord Ordinary seem proper, for payment of costs, under such circumstances as shall be specified in any rule or order made for that purpose. Court to require the party to give security for costs.

Ibid, sec. 23. No such lands, buildings, or other hereditaments shall be so taken without the consent of the owner or owners thereof, or of any such person or persons aforesaid, acting for or on the behalf of the owner or owners thereof, unless the necessity or expediency of taking the same shall be first certified[1] by the Lord Lieutenant, or two of the Deputy Lieutenants, of the county, riding, stewartry, city, or place in which such lands, buildings, or other hereditaments lie, and unless the taking of such lands, buildings, or other hereditaments, be authorised by a warrant under the hand or hands of the Lord High Treasurer or of the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, for the time being, or any two[2] or more of them, or unless the enemy shall have actually invaded the United Kingdom at the time when such lands, buildings, or other hereditaments shall be so taken. Lands not to be taken for the defence of the realm without consent of the owners, unless in certain cases.

2. These additional provisions were added by Section 46 of the Defence Act, 1860.

Defence Act, 1860, sec. 9. Every notice of land required to be taken by the said Principal Secretary shall be served personally on the said parties, or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any of such parties be absent from the United Kingdom, or cannot be found after diligent inquiry, shall be addressed to such party and left with the occupier of the lands, or, if there be no such occupier, affixed upon some conspicuous part of such lands: How notices to be given.

If any of such parties be a corporation aggregate such

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[1] See No. 4, Appendix, p. 222. This was taken from sec. 10 of 44 Geo. III., c. 95; but the draughtsman had overlooked the 1 and 2 Will. IV., c. 17, which abolished the Governors and Deputy Governors of counties in Ireland. "It is essentially necessary," wrote the Law Officers in July 1805, "in order to give authority to take possession of any lands on behalf of His Majesty under the Act, when the owners are unwilling to part with them, that the Lieutenant should grant his certificate of the necessity and expediency of taking possession of the same. The Lieutenant, it is conceived, will adopt without hesitation or reserve the judgment of the military officer commanding in the district as perfectly sufficient and satisfactory on these points, unless some circumstances or improper motive should appear to the Lieutenant to have influenced the choice and judgment of such officer." See also Note on sec. 16, *ante*, pp. 14-5. B., p. 74.

[2] See No. 5 of Appendix, p. 223, and 12 and 13 Vict., c. 89.

notice shall be left at the principal office of such corporation, or, if no such office can after diligent inquiry be found, such notice shall be served on some principal member, if any, of such corporation, and a duplicate of the notice shall be addressed to such corporation and left with the occupier of the lands, or, if there be no such occupier, affixed upon some conspicuous part of such lands.

How compensation to be settled in case of neglect to treat.

If for fourteen days after the service of any such notice as aforesaid any party on whom the same is served fail to state the particulars of his claim in respect of any lands to which such notice relates, or to treat with the said Secretary of State as to the amount of compensation to be paid to such party or which he is empowered to agree upon, Defence 1860, se

Or if the said Secretary of State and such party do not within such fourteen days agree as to the amount of such compensation,

Such amount shall be settled by a jury in like manner as if the same were compensation for lands surveyed and marked out under the Defence Act, 1842, as amended by the Ordnance Transfer Act, 1855:

Provision where compensation claimed is under 200*l*.

Provided always, that if the compensation claimed do not exceed two hundred pounds, the same shall be settled by two Justices, in manner following; that is to say, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before two Justices at a time and place to be named in the summons, and upon the appearance of the parties, or, in the absence of either of them, upon proof of due service of the summons, it shall be lawful for such Justices to determine such amount, and for that purpose to examine the claimant and the witnesses of the parties upon oath. *Ibid*, sec

Compensation to absent parties to be settled by a surveyor to be appointed by two justices.

Where by reason of absence from the United Kingdom any party is prevented from treating, or cannot after diligent inquiry be found, the amount of such compensation shall be determined by valuation in manner following; that is to say, the said Secretary of State shall make application to two Justices and upon proof satisfactory to them that any such party is by reason of absence from the Kingdom prevented from treating, or cannot after diligent inquiry be found, such Justices shall, by writing under their hands, nominate a competent surveyor for determining the amount of such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. *Ibid*, se

Surveyor acting corruptly to be guilty of a misdemeanour

If any surveyor wilfully and corruptly make any incorrect or false valuation, or wilfully and corruptly act in the matter hereof, he shall be guilty of a misdemeanor. *Ibid*, se

Valuation to be preserved and produced on demand.

The said nomination shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Secretary of State, who shall at all times produce the said valuation and other documents, on demand, to all parties interested in the lands comprised therein. *Ibid*, se

3. Powers of the Lands Clauses Consolidation Acts, 1845, may be used.

24 c. 106, and .12, sec. id 6 Vict., sec. 3.

Power to Secretary War to u the powe given to moters o undertak by 8 and Vict., ca

For the purchase or acquisition of any messuages, lands, tenements, and hereditaments wanted for the Service of the Admiralty, or of the War Department, or for the Defence of the Realm, it shall be lawful for Her Majesty's Principal Secretary of State for the War Department for the time being to use all or any of the powers and provisions by the Lands Clauses Consolidation Act, 1845, and by the Lands Clauses Consolidation (*Scotland*) Act, 1845, given to promoters of the undertaking, as therein mentioned, and for such purposes the said Principal Secretary shall be deemed and taken to be the promoters of an undertaking within the meaning of the said Act, and all the powers and provisions thereof shall, if used by Her Majesty's Principal Secretary of State for the War Department, be treated as if they were contained in the Defence Act, 1842, for the purpose of being used and made available by the Principal Officers of Her Majesty's Ordnance, and had been transferred to the said Principal Secretary for the time being by the Ordnance Board Transfer Act, 1853, for the purposes aforesaid: provided always that nothing herein contained shall authorize any purchase otherwise than by agreement, of any land, except according to the provisions of the 23rd Section of the Defence Act, or prejudice or affect the powers and authorities of the said Principal Secretary for the time being under the said last-mentioned Statutes, or either of them.

(*l.*) AS TO THE PAYMENT OF PURCHASE MONEY TO THE COURT OF CHANCERY.

I. These provisions are contained in the Defence Act, 1842.

e Act, ec. 25.

Purchase money p able to b politic, & how to b invested.

Where any money shall have been or shall be agreed, or shall have been or shall be required by the verdict of any jury, to be paid or given by the said principal officers, for the absolute purchase or exchange of any messuages, buildings, castles, forts, lines, or other fortifications, manor, lands, grounds, tenements, or hereditaments, or of any reversion, as aforesaid,[1] or of the enfranchisement of any copyhold or purchase of any other interest belonging to any such body, or other person or persons under any disability or incapacity, or not having the absolute interest therein, the said money, if the same shall amount to or exceed the sum of two hundred pounds, shall be paid into the bank of England in the name and with the priority of the Accountant-General of the Court of Chancery,[2] to be placed to his account, then in the manner of the particular Act to the credit of the persons claiming to be interested therein (naming them), pursuant to the method prescribed by any Act in force for the time being, for regulating the payment of monies in the said Court, and upon the filing in the Court of Chancery of the certificate of the Accountant-

[1] See 22 and 23 Vict., c. 21, s. 8.

[2] As to the forms of request, see 12 & 13, Appendix, p. 229.

General, with the receipt annexed of the payment into his name as aforesaid of any such money, the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, in respect whereof the same is paid, shall be and become vested[1] in the said Principal Secretary for the time being, for the service of the War Department, or for the defence of the realm, in trust for Her Majesty, Her heirs and successors.

Court of Chancery to make order for the investment of such purchase money.

The Court of Chancery[2] is hereby authorized and empowered, Defence 1842, s in a summary way, upon motion or petition for or on behalf of any person or persons interested in or entitled to the benefit of the money so paid to and received by the said Accountant-General, or the interest or produce thereof, and upon reading the certificate directed to be signed by the said Accountant-General as aforesaid, and receiving such further satisfaction as the Court shall think necessary, to make and pronounce such orders and directions for paying the said money or any part of the same, or for placing out such part thereof as shall be principal in the public funds, or upon Government or real securities, and for payment of the dividends or interest thereof, or any part thereof, to the respective persons entitled to receive the same, or for laying out the principal or any part thereof in the purchase of other lands or hereditaments, to be conveyed and settled to, for, and upon the same uses, trusts intents, or purposes as the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, so purchased or taken, stood settled at the time of the payment of such money as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said money or any part thereof, and the interest of the same, or any part thereof, for the benefit of the person and persons entitled to and interested in the same respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes as the said Court shall think just and reasonable. *Ibid*, s

Investment of purchase money when less than 200*l*.

In case such purchase money as is lastly herein-before mentioned shall be less than the sum of 200*l*., and shall exceed the sum of 20*l*., then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, so purchased, or of his, her, or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the said Court of Chancery, in order to be applied in manner herein-before directed; or other-

[1] Payment in the terms of this section is equivalent to an absolute discharge to the Secretary of State.

[2] As to the mode of procedure, the 23rd section of the Defence Act, 1860, supersedes this section. Maynard's Trusts, 7 Jur. (N.S.), 232. Upon the construction of its concluding words see "*Ex parte* the Duke of Wellington," 33 Bea. Rep., 13. It was never the practice of the Department to appear upon these petitions, and the Court acts upon the case without any reference to the Department, against whom costs cannot be given.

wise the same shall be paid, at like option, to three trustees to be nominated by the person or persons making such option, and approved of by the said Principal Secretary, such nomination or approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money may be invested in the purchase of stock in the public funds, and that such stock, when purchased, and the dividends arising therefrom, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the order, direction, or approbation of the said Court of Exchequer.

Defence Act, 1842, sec. 28.

Investment of purchase money when less than 20*l*.

In case such purchase money shall be less than 20*l*., then and in all such cases the same shall be applied to the use of the person or persons who would for the time being be entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, so purchased, in such manner as the said Principal Secretary shall think fit, or in case of infancy or lunacy, then to his, her, or their guardian or guardians, committee or committees, for the use and benefit of such person or persons entitled respectively.

Ibid, sec. 30.

Persons in possession deemed entitled to the property until contrary shall be shown.

Provided always, and be it enacted, that where any question shall arise touching the title of any person to any money to be paid into the bank of England, pursuant to the directions of this Act, or at any bank annuities to be purchased with any such money, or the dividends or interest of any such bank annuities, the person or persons who shall have been in possession of the property so purchased at the time of the purchase shall be deemed to have been lawfully entitled to such property according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery, and the dividends or interest of the bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the said Court that such possession or receipt was wrongful, and that some other person or persons was or were lawfully entitled to such property.

II. These additional provisions are contained in the Defence Act, 1860.

Defence Act, 1860, sec. 20.

Provision for payment and application of compensation money in certain cases.

Any compensation payable for or in respect of any lands, or any interest therein, taken from or holden by any owner who by reason of absence is prevented from treating as aforesaid, or who cannot after diligent inquiry be found, or who refuses to accept such compensation, or neglects or fails to make out a title to such lands or the interest therein claimed by such owner to the satisfaction of the said Secretary of State.

And any compensation payable for or in respect of any lands or any interest therein taken from or holden by any corporation or person not having, independently of this Act, 1860, and the Defence Act, 1842, as amended as aforesaid,

power to agree as to the amount of such compensation, or to sell and convey such lands or such interest,

Shall be paid and applied in manner directed by the sections numbered twenty-five to thirty of the Defence Act, 1842 (and with regard to England), as amended by section eight of 22 and 23 Vic., c. 21, as if the said sections expressly extended to the said compensation. Defence 1860, s

On payment into Court of compensation, an addition to be made to meet future expenses.

Where any compensation is required to be paid into the Bank of England or Ireland under this Act, there shall be added thereto a sum of thirty pounds as an equivalent for the expenses consequent upon such payment, and upon such compensation, with such additional sum (which shall be deemed part of such compensation), being so paid, the said Secretary of State shall be discharged from all liability in respect thereof, and the Court of Chancery may allot to any tenant for life, or for any other partial or qualified estate in respect of any expenses of investment incurred by him, any portion of any such compensation which the Court may deem just. *Ibid*, s

Provision for payment into Court on failure for three months after compensation ascertained to deduce a title.

The said Secretary of State may in any case at or after the expiration of three months from the time at which the compensation for any lands has been agreed upon or otherwise ascertained, if the owner thereof have not in the meantime made out a title thereto to the satisfaction of the said Secretary of State, pay such compensation, without such addition as aforesaid, into the Bank of England or Ireland in manner hereinbefore referred to, and such payment shall discharge the said Secretary of State from all liability in respect of the money so paid. *Ibid*, s

Provided always, that the Court of Chancery may, upon application for payment of such money to the party entitled, in case the Court be of opinion that there was no unreasonable delay in deducing the title, or that a good title was shown, order all or any costs occasioned by such payment into Court to be paid by the said Secretary of State.

Orders concerning money paid into Court may be made at Chambers.

All orders and directions in relation to any money paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Chancery under this Act, or the securities in or upon which the same may be invested, or the dividends or interest on such money and securities, which under the said Acts the Court of Chancery is empowered to make or give, on motion or petition, may be made or given by the Master of the Rolls or any of the Vice-Chancellors while sitting at Chambers, upon summons, in like manner as in other cases in which proceedings may be so had before the Master of the Rolls and Vice-Chancellor, subject, nevertheless, to any general rules and orders which may hereafter be made concerning the practice, proceedings, or business of the said Court.[1] *Ibid*, s

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[1] See note [2], page 26.

(*m.*) SUBSEQUENT COMPENSATION FOR INTERESTS OMITTED TO BE PURCHASED.

Act, c. 36. Provision to interest omitted to purchased.

If at any time after the said Secretary of State has entered upon any lands vested in him, any party appear to be entitled to any estate, right, or interest in or charge affecting such lands, which through mistake and inadvertence has been omitted to be purchased or compensated for, the said Secretary of State shall nevertheless remain in the undisturbed possession of such lands, and shall be deemed to have an indefeasible title thereto, but shall pay compensation for any such estate, right, interest, or charge, which but for this enactment might be recovered or enforced, and also pay to such party or to any other party who may establish a right thereto full compensation for the mesne profits or interests which would have accrued to such parties respectively in respect thereof during the interval between the entry of the said Secretary of State thereon and the time of the payment of such compensation by the said Secretary of State so far as such mesne profits or interest may be recoverable at law or in equity:

Such compensation shall be agreed on or awarded and paid in like manner as the same would have been agreed on or awarded and paid in case the said Secretary of State had purchased or compensated for such estate, right, interest, or charge before his entering upon such lands, or as near thereto as circumstances will admit.

c. 37. How value such lands be estimat

In estimating the compensation to be given for any such estate, right, interest, or charge affecting any lands, or for any mesne profits or interest, the Jury or Justices, as the case may be, shall assess the same according to the value of the lands at the time the same were entered upon by the said Secretary of State and without regard to any improvements or works made by him.

c. 38. Secretary State to pa the costs o litigation a such lands

In addition to the said compensation the said Secretary of State shall, when the right to any such estate, right, interest, or charge has been disputed by him and determined in favour of the party claiming the same, pay the full costs[1] and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof has taken place, and such costs and expenses shall, in case the same be disputed, be settled by the proper officer of the Court in which such litigation took place.

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[1] As to the payment of costs generally by the Secretary of State, see note 1, page 38.

(*n.*) As to the Extinguishment of Rights of Common.

Principal Secretary may avail himself of certain powers contained in 8 & 9 Vict., cap. 18, as to extinguishing rights of common, &c.

17 and Vict., c amende 22 Vic c. 12, s

In 1854 it was declared by Parliament to be expedient that greater facilities should be given to the War Department to purchase common, commonable, and other rights: it was therefore enacted that it shall be lawful for the Principal Secretary for the time being (if he shall think proper so to do) to use and avail himself of all the powers and provisions contained in the Lands Clauses Consolidation Act, 1845, for the purpose of ascertaining, making, and paying compensation for and extinguishing all rights of common, commonable, and other rights in, over, or affecting any lands the soil of which is for the time being vested in the said Principal Secretary on behalf of Her Majesty, and for such purpose the Principal Secretary for the time being shall be deemed and taken to be the promoter of an undertaking within the meaning of the said Lands Clauses Consolidation Act, 1845, and all the powers and provisions of the last-mentioned Act may, if necessary, be treated as if they had been contained in the Defence Act, 1842, for the purpose of being used or made available by the said Principal Secretary for the time being: provided always, that nothing herein contained shall prejudice or affect the powers and authorities of the Principal Secretary for the time being under the last-mentioned Statute.

Power of valuer appointed under Inclosure Act to cease on purchase of common rights by War Department.

22 Vict. sec. 2.

And in case the said Principal Secretary shall have purchased or shall hereafter purchase any land, and the common, commonable, and other rights in and over the same, and a valuer shall have been appointed in the matter of any inclosure proceeding in respect of such lands under the provisions of "The Acts for the Inclosure, Exchange, and Improvement of Land," the duties and powers of such valuer in relation to the land so purchased shall, upon payment of the purchase money for such common, commonable, and other rights over the same, cease and determine, and the Inclosure Commissioners for England and Wales shall, by an order under their seal, award such amount of compensation to such valuer as they shall deem just to be paid by the said principal officers, and such valuer shall be bound to accept the same as a full compensation for his services in the matter of the said inclosure, so far as respects the land, and common, commonable, and other rights so purchased.

Purchase may be made although Inclosure Proceedings pending.

Ibid. s

Any purchase of the soil of any lands, or of any common, commonable, or other rights in or over the same, which shall be made under the provisions of any Act of Parliament, shall be valid in law to all intents and purposes, although at the time of such purchase proceedings for an inclosure of such lands were or shall be proceeding.

The powers and provisions of the Lands Clauses Consolidation Act, 1845, to be construed as contained in the 17 and 18 Vict., cap. 67, are as follows:—

And with respect to any such lands being common or waste lands, be it enacted as follows:—

c. 18, The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the Lord of the Manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable and other rights to which the Lord of the Manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

Compensation for common lands, where held of a manor, &c., how to be paid.

s. 100. Upon payment or tender to the Lord of the Manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, such Lord of the Manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking in like manner as if such Lord of the Manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Lord of the Manor, &c. to convey to the promoters of the undertaking, on receiving compensation for his interest.

c. 101. The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the Lord of the Manor or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands to be appointed as next herein-after mentioned.

Compensation for common lands not held of a manor, how to be ascertained.

s. 102. It shall be lawful for the promoters of the undertaking to convene[1] a meeting of the parties entitled to commonable or

A meeting of the parties

[1] See the form used, No. 14, Appendix, p. 230.

interested to be convened.

other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such land shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor a like notice shall be given to the lord of such manor.

Meeting to appoint a committee.

It shall be lawful for the meeting so called to appoint[1] a committee not exceeding five in number of the parties entitled to any such rights, and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties. 8 Vict., sec. 103

Committee to agree with the promoters of the undertaking.

It shall be lawful for the committee so chosen to enter into an agreement[2] with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same, and such compensation, when received, shall be apportioned by the committee among the several persons interested therein according to their respective interest, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or nonapplication thereof. *Ibid*, sec

Disputes to be settled as in other cases.

If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation. *Ibid*, sec

If no committee be appointed, the amount to be determined by a surveyor.

If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor to be appointed by two justices as herein-before provided in the case of parties who cannot be found. *Ibid*, sec

Upon payment of

Upon payment or tender to such committee, or any three of them, or if there should be no such committee then upon *Ibid*, sec

[1] See No. 15, Appendix, p. 231. [2] *Ibid*, p. 232.

deposit in the bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

Compensation payable to commoners the lands to vest.

The responsibility of the Secretary of State ceases with the payment of the money to the committee, but provision is made by the 17 and 18 Vict., cap. 97, secs. 15 and 21, for distributing the purchase money to the various common owners through the agency of the Enclosure Commissioners.

(*o.*) As to Stopping up Highways.

Defence Act, 1842, secs. 16 and 17.

It shall be lawful for the Principal Secretary[1] for the time being, for the service of the War Department, or for the defence of the Realm, to stop up or divert any public or private footpaths or bridle-roads: Provided always, that whenever any footpath or bridle-road shall be stopped up as aforesaid, another path or road shall be provided and made in lieu thereof respectively, at the expense of the War Department, and at such convenient distance therefrom as to the Principal Secretary for the time being shall seem proper and necessary.

Principal Secretary may stop up and divert footpaths.

Defence Act, 1860, sec. 40.

It shall be lawful for the said Secretary of State, without any writ being issued or other legal proceeding being adopted, to stop up or divert or alter the level of any highway, way, sewer, drain, or pipe over, through, under, or adjoining any lands comprised in any declaration made under the Defence Act, 1860, he, if necessary, previously making, opening, or laying down another good and sufficient way, sewer, drain, or pipe in lieu of that stopped up or diverted.

Power to divert highways, &c.

Ibid, sec. 41.

It shall be lawful for the said Secretary of State to alter the course and level of any river not navigable, brook, stream, or watercourse, and any branch of any navigable river (such branch not itself being navigable) within or adjoining such lands, making compensation for any damage sustained by reason of the exercise of such powers, such compensation to be determined and paid in like manner as other compensation under the Act of 1860, or as near thereto as circumstances admit.

Power to alter the course of brooks, &c

[1] As to form of the notice or order, see No. 17, Appendix, p. 234.

(*p.*) TAKING OF LANDS FOR A TEMPORARY PURPOSE.

Erections on lands taken for a temporary purpose to be removed before the lands are restored to the owner, and compensation shall be made for the injury done.

In all cases where any lands, buildings, or other hereditaments shall have been taken under the provisions of the 44 Geo. III., cap. 95,[1] or shall be taken under the provisions of the Defence Act, 1842, for any term of years,[2] or for such period only as the exigencies of the public service shall require, it shall be lawful for the said Principal Secretary at any time before the possession thereof shall be delivered up to the owner or owners thereof, or other person or persons acting on his, her, or their behalf, to take down and remove[3] all such buildings or other erections which shall or may have been built or erected thereon for the public service, after the same was or were so taken as aforesaid, and to carry away the materials thereof, making such compensation to the owner or owners of such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf for the damage or injury which may have been done thereto or to the soil thereof, 5 and 6 c. 94, ss

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[1] The Act here referred to amended Mr. Pitt's Defence Act of 1803 (43 Geo. III., cap. 55), and the provision for the removal of all buildings (which, if built, might be available for defence) is consistent with the constitutional rule which provides that all works of defence should be held by the Crown alone and not by any subject.—*Military Forces*, vol. i., p. 7.

[2] No case has come under my notice in which the compulsory powers of the Defence Act have been applied to acquire a leasehold estate. Where enclosures of land had been leased with a right of renewal to A, who had under-leased to B, and the Department wished to acquire the interests both of A and B in *one* of such enclosures only, the late Mr. Welsby wrote, "There seems certainly to be great difficulty in carrying into effect the arrangement desired by the War Department, namely, the transfer of the whole interest and right of renewal of A and B under the compulsory sections of the Defence Act, 5 and 6 Vict., cap. 94. Those sections all hang upon the 16th, which only empowers the Ordnance to treat either for the absolute purchase of the lands surveyed and marked out or 'for the possession and use thereof during such time as the exigence of the public service shall require.' So, section 19 speaks only of 'such sum of money as shall be offered as the consideration for the absolute purchase of such lands, &c., or such annual rent or sum as shall be offered for the hire thereof, &c.' The only course, therefore, which the Department can, in my opinion, lawfully adopt in the present case is to endeavour to agree with B for an under lease, and in case of a refusal to treat to have a jury summoned to assess the compensation to be paid by way of rent for the possession and use of the lands in question for such term as B has power to grant and as the exigence of the service may require. This course will not raise any question of appropriation of rents, and will probably meet in substance the wishes of the Department. . . . . There can be no doubt that they apply to a part just as much as the whole of the lands leased to B." Again, where the Department, having a lease for 78 years, wanted a longer term (say for 999 years) the Law Officers advised that, failing in negociations with the owner, "the Department may then resort to the notice and subsequent proceedings under the Defence Act; which notice, however, must, we think, be general and unconditional in its terms, and not clogged by any stipulations or conditions having reference to the user of the land when taken by the Department." D., p. 2 *Ib.*, p. 4

[3] As to the removal of a fort and its armament from land of which the lease had fallen in by death, the Law Officers, in July 1871, wrote, "We are of opinion that the Secretary of State has the right and power under the Statute to remove such forts and erections with or without the assent of the legal owner of the land. He is liable to pay compensation to the landowner for the damage done to his land by the erection and occupation for the public service of such buildings as are authorized by the Statute. In the absence of agreement the compensation is to be settled by two Justices on the principle of payment for damage done and no more. As the 24th Section does not contain any provision for apportionment of the compensation, and as no definition of the term 'owner' is given, we think on the whole that the tenant for life must be deemed the owner within the meaning of that section." Book I., p. 566.

by the erection of any such buildings, or otherwise, in consequence of the same having been occupied for the public service, as the said Principal Secretary shall think reasonable, and as shall be agreed upon in that behalf.

In case of disagreement, how compensation shall be settled.

And if such owner or owners, or other person or persons acting on his, her, or their behalf, shall not be willing to accept the compensation so offered, it shall be lawful for the said Principal Secretary to apply and require two Justices of the Peace of the county, riding, stewartry, city, or place to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof; and the amount of such compensation, so settled and ascertained and certified, shall forthwith be paid by the proper officer for the time being of the department for the use of which such lands, buildings, or other hereditaments shall have been taken, to the person or persons entitled thereto.

Act not to affect any agreement between the parties.

Provided always, that nothing in the Act contained shall alter, prejudice, or affect any agreement entered into by the said Principal Secretary with any owner or owners of any such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf, in relation to any such buildings or erections, but every such agreement shall remain valid and effectual in like manner as if the Act had not been passed.

(*q.*) As to Payment of Local Rates.[1]

Defence Act, 1860, sec. 33.

Lands to continue subject to tithe rentcharges, taxes, and rates.

The lands vested in the said Secretary of State in pursuance of the Act of 1860, which were before the time of such vesting liable to and charged with tithes or tithe rentcharge, land tax, poor or other rates, shall continue chargeable therewith, but shall not be assessed to any tax or rate at a higher value or rent than that at which such lands were assessed at the time of such vesting.[2]

35 and 36 Vict., c. 68, sec. 11.

Lands to continue subject to land tax and rates.

All lands acquired by the said Secretary of State in pursuance of the Localization Act, 1872, which were at the time of such acquisition subject to land tax, to poor or other rates, shall continue liable thereto.[3]

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8 Ell. & Black, p. 360).

[1] The vesting Acts, distinguished by *, enacted that the local assessment should continue payable. "The King *v.* Stewart," in 1857, gave a wider exemption from rates than hitherto had been claimed. The subject then attracted attention, and the Commons Committee reported to Parliament on 19th July 1858. This led to a vote being taken by the Treasury to meet these charges on all Government property. The 5 & 6 Will. IV., c. 76, sec. 80, grants an exemption from borough rates.

E., p. 433. L., p. 448.

[2] When lands vested in the Secretary of State under the Act are let, at a rack rent or otherwise, the occupying tenant will be liable for the rates; but such land will be rateable, in favour of the occupier, as well as of the Secretary of State, at the ordinary assessment, provided it be within the limited assessment prescribed by the section, *i.e*, the rate at the date of vesting.

J., p. 294.

[3] All lands acquired by the Secretary of State pursuant to the provisions of this Act will be liable to be assessed from time to time, according to the ordinary law, to the poor and other rates to which they were subject at the time of such acquisition, that is to say, such lands will be subject to be rated in the same manner as they would have been rated if they had not been acquired by the Secretary of State.

(*r.*) As to Notices and Claims.

Principal Secretary empowered to give notices, make claims, and authorise entries, &c.

Defence 1842, sec

The Principal Secretary for the time being is authorised and empowered to give any notice, make any claim or demand, and to depute or authorise any person or persons to make an entry which shall be requisite or expedient to be given or made by or on behalf of Her Majesty, Her heirs or successors, with a view either to compel any tenant, lessee, or occupier of any part or parts of the said possessions of the Crown which are or may be by law vested in the Principal Secretary, to quit or deliver up the possesions thereof, or to compel the performance of any covenant, contract, or engagement in relation thereto, or to recover possession on non-performance of any covenant, contract, or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice, make any other claim or demand, and depute any person or persons to make any other entry which shall or may be requisite or expedient to be given or made by or for or on behalf of Her Majesty, Her heirs or successors, touching any of the said possessions which are or may be by law vested in the Principal Secretary.

And that every such notice, claim or demand which shall be given or made in writing under the hand of the said Principal Secretary for the time being for any of the purposes aforesaid, and every entry which shall be made by any person or persons deputed or authorised by the said Principal Secretary to make the same, on behalf of Her Majesty, Her heirs or successors, into or upon any of the said estates or possessions, shall be good, valid, and effectual to all intents and purposes whatsoever.

Notices, &c., required to be served on or given by Secretary of State to be served on or given by the Solicitor.

Defence 1860, sec

Any notice, summons, writ, or other document required to be served on the said Secretary of State may be served by being delivered to the Solicitor for the War Department for the time being, or by being left for him thereat; and any notice, summons, writ, or other document required to be given by or on behalf of the said Secretary of State shall be given under the hand of such Solicitor.

(*s.*) As to Exemption from Personal Responsibility.

Principal Secretary exempted from personal responsibility.

Defence 1842, sec Ordnanc Board T fer Act, sec. 1.

Nothing in the Defence Act, 1842, or in any covenant, contract, lease, or other instrument thereby authorized to be entered into, made, taken, or executed by the said Principal Secretary, shall extend to charge the person of the said Principal Secretary executing any such covenant, contract, lease, or other instrument, of the heirs, executors, or administrators of the same Principal Secretary, or any of them, or their or any of their own proper lands, tenements, goods, or chattels, with or for the performance of all or any of the covenants, conditions, or agreements in the same covenant, contract, lease, or other instrument to be contained on the part of the same Principal

Secretary, nor shall any Principal Secretary be personally liable,[1] nor shall the property of any such secretary be liable, to any legal process or execution in such actions, suits, arbitrations, or other proceedings as aforesaid.

(*t.*) AS TO ACTIONS AND SUITS UNDER THE DEFENCE ACT, 1842.[2]

Defence Act, 1842, sec. 34; and see secs. 3 and 5, Ordnance Board Transfer Act, 1855.

I. The Principal Secretary and his successor for the time being is authorised and empowered to bring, prosecute, and maintain any action or actions of ejectment, or other proceedings at law or in equity, for recovering possession of any messuages, buildings, castles, lines, or other fortifications, manors, lands, tenements, or hereditaments, vested in him, and to distrain or sue for any arrears of rent which shall have become or shall become due for or in respect thereof under any parol or other demise from the said Principal Secretary, and also to bring, prosecute, and maintain any other action or suit in respect of or in relation to such messuages, buildings, castles, forts, lines or other fortifications, manors, lands, tenements, or hereditaments, or of any trespass or encroachment committed thereon, or damage or injury done thereto, and also upon all covenants and contracts whatsoever made by, to, or with the said Principal Secretary relating to the said Ordnance or Barrack Department, or the defence of the realm; and also to prosecute any other action, suit, or legal proceedings, civil or criminal, concerning the goods or chattels, stores, monies, and other property, under the care, control, and disposition of the said Principal Secretary; and that in

Ordnance may sue as "The Principal Officers of Her Majesty's Ordnance," without naming them.

[1] See Sec. 1 of Ordnance Board Transfer Act, p. 4, *ante*. The rule here stated differs in no degree from the ordinary law of the realm. On principles of public policy no action will lie against a person acting in a public character or situation for the Crown, whether the contract be by deed or parol (see the recent case of "Grant *v.* Secretary of State for India," 2 C.P.D., 463, wherein the earlier cases are cited). The remedy (if any) would be against the Crown under the Petition of Right Act, 1860 (see "Churchward *v.* The Queen," 1 L.R., Q.B., pp. 200 and 209; "Thomas *v.* The Queen," 10 L.R., Q.B., p. 30).

[2] It may be noticed that the prior enactment in force, viz.—1 and 2 Geo. IV., cap. 69, sec. 9, enabled the Ordnance Board "to defend" as well as maintain actions (the same power having previously been given under the Barrack Acts to the Barrack Comptroller, see p. 54); but this was advisedly omitted in 1842. An action of ejectment having been brought against the Ordnance Board in 1841 to recover lands which the Board alleged to belong to the hereditary revenues of the Crown, the Attorney-General intervened and obtained from the Court of Exchequer a rule to set aside and stay the proceedings ("Doe and Legh *v.* Roe," 8 Mee. and Wel., 579). No proceedings can therefore be taken under this section against the Secretary of State (D., p. 83), though he is at liberty, if so advised, to accept process and abide by the adjudication of the Court (see as an instance of this, "Earl of Suffolk *v.* Sir George Lewis," 1 Hem. and Mil., 369); "Kirk *v.* the Queen," 14 Eq. Ca., 565. The remedy must be sought against the Crown by petition of right (see "Felkin *v.* Herbert," 1 Drew and Sm., 609, and Mr. Wickens' M.S. argt.; "O'Grady *v.* Cardwell," Exch. in Ireland, Nov. 1872; "Cowing *v.* Her Majesty's Principal Secretary of State for War, M.R., 22 Jan. 1877). The object in granting these powers to the Ordnance Board "was only to enable the Board to manage the Ordnance property without being compelled to resort on every occasion to the Attorney and Solicitor-General (Lord Abinger in "Doe and Legh *v.* Roe, sup."; consequently Bills and Actions by the Secretary of State, and not informations by the Attorney-General, are the proper remedies under this section to assert the rights and recover the debts due to the Department, such being instituted in his official title, and not in his name—as Plaintiff, see Felkin *v.* Herbert (Mr. Wickens' argument), pp. 5 & 6, *ante*.

D., p. 83.

D., p. 502.
I., p. 58.
K., pp. 135, 136.

every such action, suit, or other proceedings the said Principal Secretary for the time being shall be called "Her Majesty's Principal Secretary of State for the War Department," without naming him; and no such action, suit, or other proceedings shall abate by the death, resignation, or removal of such Principal Secretary, anything in any Act or Acts of Parliament, or law or laws, to the contrary thereof notwithstanding:

Privileges and prerogatives of the Crown not to be curtailed.

Provided nevertheless, that nothing in the Defence Act, 1842, contained shall be taken to defeat or abridge, in any such action, suit, or other proceedings, the legal rights, privileges, and prerogatives of Her Majesty, Her heirs and successors, but that in all such actions, suits, or other proceedings, brought or instituted in the name and on behalf of the Principal Secretary, and in all matters relating thereunto, it shall be lawful for the said Principal Secretary to claim, exercise, and enjoy all the same rights, privileges, and prerogatives which have been heretofore claimed, exercised, and enjoyed in any actions, suits, or other proceedings whatsoever in any court of law or equity, by Her Majesty or Her predecessors, in the same manner as if the subject matter of the said suits or other proceedings were vested in the Crown, and as if the Crown were actually a party to such actions, suits, or other proceedings:

Provided also that it shall be lawful for Her Majesty to proceed by information in Her Court of Exchequer, or by any other Crown process, legal or equitable, in any case in which such actions, suits, arbitrations, or other proceedings might have been otherwise instituted.

Transfer of powers to the Principal Secretary.

By Section 3 of the Ordnance Transfer Act, 1855, these powers were transferred in these words—"And all proceedings whatsoever which have been, or might or may have been, commenced, taken, or done in the names of the said Principal Officers on behalf of Her Majesty shall and may hereafter be commenced, continued, taken, and done in the name of such Principal Secretary of State as aforesaid in like manner (in the case of proceedings already commenced, taken, or done) as if he had originally been party thereto instead of the said Principal Officer of the Ordnance."[1]

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[1] The Admiralty has a right to recover, and an obligation to pay costs by Statute (28 and 29 Vict., cap. 124, sec. 2), but no such general rule has been applied to the War Department. In 1857 the subject was submitted for the opinion of the late Mr. Welsby, who wrote "It is quite plain that under the 5th and 6th Vict., cap 94, sec. 34, the Ordnance were not subject to costs, because that clause distinctly provides that the principal officers shall in all actions, suits, and other proceedings brought in their name and on their behalf, enjoy all the rights, privileges, and prerogatives of the Crown, just as if the Crown were a party to the proceedings. And it is equally clear, I think, that the 18 and 19 Vict., cap. 117, invests the Principal Secretary of State for War with all the privileges, &c., enjoyed by the Principal Officers of the Ordnance, under the former Act, and therefore that he is not liable or entitled to costs in actions, suits, or other proceedings brought in his name and on his behalf." D., p. 81.

The 18 and 19 Vict., cap. 90, applies only to cases were the Attorney-General is a party ("Queen *v.* Beadle," 7 Ell. and Blac., 496, and the "Petition of Right Act," 23 and 24 Vict., cap. 34), provides for the payment and receipt of costs. Where parties sue the Secretary of State in his personal title, as in "Felkin *v.* Herbert," and "Dickson *v.* Peel," they pay costs.

II. And further, under the War Department Stores Act,[1] 1867.

31 c. 128, The Secretary of State for War may institute and prosecute any action, suit, or proceeding, civil or criminal, concerning military or ordnance stores, or other Her Majesty's stores under the charge or control of the Secretary of State for War, or any stores sold or contracted to be delivered to or by the Secretary of State for War for the use or on account of Her Majesty, or the price to be paid for the same, or any loss or injury of or to any such stores as aforesaid, and may defend any action, suit, or proceeding concerning any such stores, matter, or thing as aforesaid; and in every such action, suit, or proceeding the Secretary of State for War may be so described, without more; and any such action, suit, or proceeding shall not be affected by any change in the person for the time being holding the office of Secretary of State for War: provided always as follows:— Power for Secretary State to s &c.

(1.) Nothing therein shall take away or abridge in or in relation to any such action, suit, or proceeding any legal right, privilege, or prerogative of the Crown; and in all such actions, suits, and proceedings, and in all matters and proceedings connected therewith, the Secretary of State for War may exercise and enjoy all such rights, privileges, and prerogatives as are for the time being exercised and enjoyed in any proceeding in any Court of Law or Equity by the Crown, as if the Crown were actually a party to such action, suit, or proceeding:

(2.) Her Majesty, Her heirs and successors, if and when it seems fit, may proceed by information in the Court of Exchequer, or by any other Crown process, legal or equitable, in any case in which it would have been competent for Her Majesty, Her heirs or successors, so to proceed if no provisions respecting procedure had been inserted in the Act.

(*u.*) AS TO LEGAL PROCEEDINGS FOR THE RECOVERY OF THE POSSESSION OF WAR DEPARTMENT LANDS.

t., c. 12, Where any lease or agreement of or concerning land in England vested in the said Secretary of State on behalf of Her Majesty is determined by expiration, notice, or forfeiture (except for nonpayment of rent, possession of such land may be recovered by or on behalf of the said Secretary of State under 1 and 2 Vict., cap. 74, as in cases therein provided, for although the term or interest of the lessee or tenant may have exceeded seven years, and the rent may have exceeded the rate of twenty pounds a year, or such possession may be recovered with rent or mesne profits, or both, under the 19 and 20 Vict., Recovery possession land in England f tenants.

[1] The Act does not extend to Scotland or Ireland, and defines stores as including all goods and chattels, or any single store or article.

cap. 108, as in cases provided for in Section 50 of such Act, and other provisions auxiliary thereto, although the value of the premises and the rent which may have been payable in respect thereof may have exceeded 50*l.* by the year; and in proceeding under the said first Act for recovery of possession of any land which may have been holden under any such lease or agreement as aforesaid, the notice of intention to apply to Justices to recover possession may require such possession to be given on or before the expiration of seven clear days from the service of the notice, and the form of notice shall be varied accordingly; and the Justices by the said Act authorised to issue a warrant for giving possession of the premises may by such warrant authorise the entry and delivery of possession of the premises, either forthwith or on or before such day as the Justices may think fit to name; and in proceeding under the said second Act for the recovery of possession as aforesaid it shall not be necessary to prove the yearly value and rent as thereby required.

Recovery of possession of land in Ireland from tenants.

When any lease or agreement of or concerning land in Ireland vested in the said Secretary of State on behalf of Her Majesty is determined by expiration, notice, or forfeiture (except for nonpayment of rent), possession of such land may be recovered by or on behalf of the said Secretary of State either as provided by Section 72 of 14 and 15 Vict., cap. 57, in the case of lands holden by a tenant at a rent not exceeding 50*l.* per annum, and the tenant's interest wherein is determined, notwithstanding the rent payable under such lease or agreement may exceed that amount, and the provisions of the said Act shall be applicable accordingly, or as provided by Section 15 of "The Summary Jurisdiction (Ireland) Act, 1851" (14 and 15 Vict., cap. 92, sec. 15), for the recovery of possession of houses in certain towns and villages; and such last-mentioned provision shall be applicable in all cases to the recovery of land in Ireland holden under any such lease or agreement as aforesaid where such lease or agreement is determined as aforesaid, wherever such land may be situate, and at and for whatever rent and term the same may be holden: and notwithstanding anything to the contrary in the said provision the justices authorised to issue a warrant for giving possession may by such warrant authorise such possession to be given forthwith, or on or before such day as the justices may think fit to name, and may, if they think fit, issue such warrant notwithstanding the tenant may be willing to give such undertaking as therein mentioned.[1] 22 Vict., sec. 6.

[1] The attention of the Irish Law Officers was called to the Irish Land Act, 1870, and to the fact that the rents of War Department lands went to the Exchequer, and the repairs were provided for out of the Army Votes; and they advised that the Irish Land Act "does not affect the Secretary of State or the tenancies created by him or under him in his official capacity." The Agricultural Holdings Act (England, 1875) is said to bind the War Department (K. 51). Book I., 836.

(*v.*) As to Sales and Exchanges.

Defence Act, 52, sec. 12.

The said Principal Secretary for the time being may sell,[1] exchange, or in any manner dispose of or let or demise any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments respectively, which shall be vested in him, with their respective appurtenances, either by public auction or private contract, and may convey, surrender, assign, or make over, or may grant or demise the same respectively (as the case may require) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively, and also may do any other act, matter or thing in relation to any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall by the said Principal Secretary be deemed beneficial to the public service in relation thereto,[2] or for the better management thereof, which might be done by any person having a like interest in any such like messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments; but nothing therein contained shall be construed to give to the said Principal Secretary for the time being a greater or better estate in the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, or any of them, than was vested in Her Majesty, or in the person or

Lands, &c., may be sold, exchanged, or let.

[1] The Secretary of State is a trustee without the power of making *gratuitous* grants of land to any person or corporation unless a statutory authority by general or local Act be conferred upon him. This fact is too often overlooked, and in one instance obliged a Secretary of State to revoke or recall a grant made by his predecessor and to require the town to pay the Exchequer for the land which the Corporation held. Whenever, therefore, an applicant asks for a *gratuitous* grant of land from the Secretary of State, he should be required to show the statutory authority under which the grant may be made. These statutes appear to authorise such grants:—(1) 3 Geo. IV., cap. 72, sec. 1, for church sites and yards, and for parsonage houses; (2) 4 and 5 Vict., cap. 38, sec. 6, and 15 and 16 Vict., cap. 49, for school sites; (3) 17 and 18 Vict., cap. 112, sec. 6, for literary and scientific institutions; (4) 22 Vict., cap. 27, for public recreation grounds, contains no such powers as are found in the Acts last referred to.

D., p. 508.

[2] Deeds of trust or dedication for religious uses are made under this section, and the forms of these deeds are given in Appendix, Nos. 18 and 19, p. 235.

In 1856 some land was set apart as a military burying ground, and prior to its consecration two questions were submitted to the Queen's Advocate (Sir J. Harding). 1st. Whether the ground could be consecrated without giving the future control to the incumbent of the parish? And, 2ndly, whether the ground might remain vested

E., p. 455 (*a*). in the Secretary of State. He wrote as follows:—"1st. I am of opinion that the ground can be consecrated without giving the incumbent of the parish any right of control over it. 2nd. The ground need not necessarily be conveyed to any person. It may, in my opinion, still remain vested in the Principal Secretary of State for War. I believe that in 1833 a burial ground, and in 1844 a vault was consecrated in the Tower of London, without any previous conveyance of the ground; the only object of such a conveyance is to secure the ground for sacred uses, and to obviate the possibilty of desecration. If a conveyance should be resorted to in this case, then the commissioners for building additional churches will be the proper parties to whom such conveyance should be made. I see no absolute necessity for any such conveyance. A formal declaration under the hand and seal of the Secretary at War of the use to which the ground is to be set apart would, in my opinion, suffice, and might justify the bishop in consecrating it.

Ib., p. 453. In 1858 it was proposed to consecrate a church, and the Queen's Advocate advised, "that upon such a formal declaration being executed in this case as was executed in the case of the Aldershot Burial Ground (herewith) *mutatis mutandis*, the Lord Bishop of Rochester will be justified in consecrating this church."

persons holding the same in trust for Her Majesty, at the time of the passing of the Defence Act, 1842.

Purchase money shall be paid to those whom the principal officers may direct.

The moneys to arise and be produced by the sale or exchange of any of the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, which shall be so sold or exchanged, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, to such person or persons as the said Principal Secretary for the time being shall direct or appoint to receive the same for the use of Her Majesty, Her heirs and successors, and the receipt of the said Principal Secretary for such moneys (such receipt to be endorsed on every such conveyance, surrender, or assignment as aforesaid) shall effectually discharge the purchaser or purchasers, or person or persons by whom or on whose account the same shall be paid. Defence 1842, sc

After purchase money paid, the purchaser to have full right and possession.

Immediately from and after the payment of such purchase money and the execution of every such conveyance, surrender, and assignment as aforesaid, the purchaser or purchasers therein named, or the person or persons making such exchange as aforesaid, shall be deemed and adjudged to stand seised and possessed of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments which shall be so purchased or taken in exchange by and conveyed, surrendered, assigned, or made over to him, her, or them respectively, and notwithstanding any defect in the title of the said Principal Secretary thereto, freed and absolutely discharged of and from all and all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever which can or may be had, made, or set up, in, to, out of, or upon or in respect of the same messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments by any person or persons whomsoever on any account whatever (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever as in any such conveyance, surrender, deed of exchange, or assignment shall be excepted). *Ibid*, se

Compensation to be made where equitable rights are established;

In case any person or persons shall have any just and legal or equitable right to any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall be so sold, exchanged, and conveyed as aforesaid, or to any part or parts thereof, or to any charge, incumbrance, or demand affecting the same, and not being under any of the disabilities hereinafter mentioned, and shall within five years next after such right shall by law or equity accrue to or become vested in him, her, or them respectively, or, being femes covert (except femes covert whose estates have been or may be sold under the authority of this or any other Act for that purpose), persons within the age of twenty-one years, or out of the realm, or not of whole mind, at the time of such sale, exchange, and conveyance as aforesaid, shall, within five years next after they shall respectively come and be *Ibid*, se

discovert, at their full age of twenty-one years, out of prison, within this land, or of whole mind, make out and establish such right or claim to the satisfaction of the said Principal Secretary, then and in such case the said Principal Secretary shall make or cause to be made a fair and reasonable compensation or satisfaction for every such right and claim so made out and established as aforesaid; but such compensation or satisfaction shall not in any case exceed the amount of the purchase money or purchase moneys which shall have been paid to and received by the said principal officers for the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in respect whereof such right or claim shall be so made out as aforesaid, or a proportional part thereof, exclusive of the value of any buildings or improvements which shall have been erected or made thereon for the use of the said Ordnance or Barrack Departments or for the defence of the realm.[1]

but not to exceed the purchase money received by such Principal Secretary.

(*w.*) LANDS MAY BE SOLD SUBJECT TO CLEARANCE RIGHTS.

3 and 37 ict., c. 72, c. 1.

Her Majesty's Principal Secretary of State for the War Department may from time to time, as he may deem it expedient, sell any lands vested in him or under his control as such Secretary of State as aforesaid, subject to the condition that such lands are for ever thereafter to be kept free from buildings and other obstructions.

Power of the Secretary of State for War to sell lands, subject to condition as to freedom from obstructions, and to purchase the right to subject lands to such condition.

Where any lands are sold subject to such condition as aforesaid, the following consequences shall ensue:—

Such condition as aforesaid shall be deemed to attach for ever to any lands so sold, and no building or other structure, other[2] than barns, hovels, or other like structures of wood, shall

[1] These provisions were taken from the 1 and 2 Geo. IV., cap. 69, but extended to "castles, forts, and other fortifications," a power which is at variance with the constitutional rule that such works should be held by any owner except the Crown. Had the Crown purchased instead of sold these estates, the grant of a statutory indefeasible title to the Crown (with a provision for compensation for interests omitted to be purchased) would have been essential, but to assume that the Crown will sell without an absolute right, and to provide that when the sale has been made, it must be completed at any cost not exceeding the original purchase money is a strong assumption and a very unnecessary provision.

[2] This section was framed on the 34th section of Defence Act, 1860 (as amended), so as to exclude the right to erect buildings for "commercial" purposes. In August 1864 the Law Officers wrote in these words: "A building not built wholly of wood but having an iron roof, and not built or used at all for agricultural purposes, does not fall within the excepted class. It is almost impossible to define beforehand what things, if placed upon land, will or will not amount to obstructions. It is not we think to be assumed that the owner is entitled to place upon the land any 'banks and fences' he may choose; for many possible banks and fences may be 'obstructions.' On the other hand, it is impossible to say that the deposit of a small amount of timber or moveable materials would be an 'obstruction.' The Secretary of State must in every case exercise his judgment whether or not the land is so obstructed as to be unavailable for the exercise of the rights upon it which he has purchased. We think that the words in section 34, 'generally to level and clear the said lands,' give him sufficient power to deal with every description of obstruction, whenever it becomes necessary to do so. We think that the Secretary of State, by his officers, has the right to enter at any time without notice, and remove all unauthorised buildings and obstructions, but we advise that notice of such entry be given in all cases where it is practicable and convenient." As to Forms, see Nos. 20 & 21, Appendix, pp. 236-7.

Book G, p. 9.

at any time be made or erected on any lands subject to such condition as aforesaid:

The said Secretary of State may at all times, by himself, his officers, agents, servants, and workmen, or any of them, and without payment of any compensation whatever, enter upon any lands subject to such condition as aforesaid, and pull down any present or future buildings or structures (other than as aforesaid) thereon, and cut down or grub up all or any of the trees thereon, and remove or alter all or any of the banks, fences, hedges, and ditches thereon, and make underground or other drains therein, and generally level and clear the said lands, and do all such acts for levelling and clearing the same as may be deemed necessary or proper by the said Secretary of State, but in such manner, nevertheless, that evidence of the boundaries of the lands held by different owners may be preserved:

It shall not be lawful for any person to alter the level of the said lands, or do any act which may prejudicially affect any work done on the said lands under the authority of the said Secretary of State:

The said Secretary of State may at any time, if he think it expedient so to do, suspend the operation[1] of, or extinguish any such condition as aforesaid when attached to land in pursuance of this Act.

(*x.*) TRANSFER OF LANDS TO ANOTHER PUBLIC DEPARTMENT.[2]

Effect of future Orders in Council.

Where under the Section 5 of the Defence Act, 1842, any Order in Council is made whereby any hereditaments are expressed to be transferred to any body or persons for any public service, the hereditaments in the Order comprised shall by virtue of the Order be vested, to all intents, at law and in equity, in the body or persons to whom the transfer is expressed to be made, for the estate or interest for which the same are in the Order expressed to be transferred, to be held by the body or persons aforesaid in trust for Her Majesty, Her heirs and successors, for the public service in the Order mentioned. **27 and 28 Vict., c. 89, sec. 2.**

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[1] See Form No. 22, in Appendix, p. 238.

[2] Until this Act was passed the legal estate continued vested in the Secretary of State, though subject to the use or purpose declared by the Order in Council. Of course the power to make these transfers would not justify the Secretary of State in obtaining lands under these compulsory powers in order to do so. The Admiralty, in 1859, applied to the War Department to put its powers in force for the acquisition of land needed for the Admiralty purposes, but the solicitor objected and the Law Officers sustained the objection. "We are of opinion that the compulsory powers of the Defence Act cannot be properly or safely used by the Secretary of State for War for the acquisition of land to be conveyed to the Board of Admiralty; but that if land be compulsorily taken by the Secretary of State *bonâ fide* for the purposes of the Defence Act, there would be no objection to the use of it by the Board of Admiralty in any manner not inconsistent with the purposes for which under the Defence Act it would be vested in the Secretary of State." **D., p. 37.** *Ib.*, **p. 218.**

(*y.*) TRANSFER OF FORTIFICATIONS TO COLONIAL GOVERNORS.[1]

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Power by Order in Council t transfer colonial fortificati to goverr of colony

Her Majesty, on the representation of one of Her Majesty's Principal Secretaries of State and of the Commissioners of Her Majesty's Treasury that it is expedient so to do, by Order in Council may vest any fortifications, works, buildings, or land in any colony held in trust for the defence of that colony (whether vested in Her Majesty, or in one of Her Majesty's Principal Secretaries of State, or in the principal officers of the Board of Ordnance, or in the Commanding Royal Engineer, or other officer), and the care and disposal of such fortifications, works, buildings, or land, in the governor of the colony, for such estate and interest, and upon such terms and conditions, and subject to such reservations, exceptions, and restrictions as are specified in the Order; and the governor for the time being of the colony shall, by virtue of the Act and the Order, take and hold (subject to the provisions of the Order) the premises transferred to and vested in him accordingly.

Every representation to Her Majesty proposed to be made in pursuance of the Act shall be laid before both Houses of Parliament, and shall lie for not less than forty days on the table of both Houses before it is submitted to Her Majesty.

(*z.*) AS TO ARSENALS, FACTORIES, AND STOREHOUSES FOR EXPLOSIVES.

For the protection of these buildings from trespass and intrusion, these enactments in "The Explosive Substances Act,[2] 1875" (38 Vict., cap. 17), are in force:—

, c. 17,

Penalty o and remo of trespas

Any person who enters without permission or otherwise trespasses upon any factory, magazine, or storehouse under the control of the Secretary of State, the Commissioners of the Admiralty, or other Department of the Government, or otherwise held for the service of the Crown, or any storehouse appointed for receiving any explosive under the Volunteer Act, 1863, and any Act amending the same, if such storehouse is approved by the Secretary of State, or Commissioners of the Admiralty, or the land immediately adjoining thereto in the occupation of the Crown, or of a Secretary of State, or the Com-

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[1] The definitions in the Act are these:—

Definition "Colony."

The expression "colony," means any dominion, colony, island, territory, province, or settlement situate within Her Majesty's dominions, but without the United Kingdom, the Channel Islands, and Isle of Man, and not forming part of India as defined for the purposes of the Acts for the time being in force relating to the Government of India, and for the purposes of this Act the whole of the dominion, colonies, islands, territories, provinces, and settlements under one central legislature is deemed to be a colony.

"Governo

The expression "governor" includes any lieutenant-governor, or officer administering the government of a colony, and any other person defined by an Order in Council under this Act to be the governor of the colony.

[2] See also sec. 97 (at p. 202 *post.*), the last part of which is here incorporated in the 77th sec.

[3] See the necessity of these enactments, Vol. I., "Military Forces," p. 14, note 3.

missioners of the Admiralty, or other Department of the Government, or if it adjoin such a storehouse in the occupation of the officer or person in whom such storehouse is vested, and any person found committing any act tending to cause explosion or fire in or about such factory, magazine, or storehouse, shall for every such offence, if not otherwise punishable, be liable to a penalty not exceeding 5*l.*, and may be forthwith removed from such factory, magazine, store, land, or wharf, by any constable, or by the occupier of such factory, magazine, store, or wharf, or any agent or servant of or other person authorised by such occupier.

Any person other than the occupier of or person employed in or about any factory, magazine, or store who is found committing any act which tends to cause explosion or fire in or about such factory, magazine, or store, shall be liable to a penalty not exceeding 50*l.*

The occupier of any such factory, magazine, store, or wharf shall post up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under this section; but the absence of any such notice or notices shall not exempt a person from a penalty under this section.

Arrest without warrant of persons committing dangerous offences.

Any person who is found committing any act for which he is liable to a penalty under this Act, and which tends to cause explosion or fire in or about any factory, magazine, store, railway, canal, harbour, or wharf, or any carriage, ship, or boat, may be apprehended without a warrant by a constable, or an officer of the local authority, or by the occupier of or the agent or servant of or other person authorised by the occupier of such factory, magazine, store, or wharf, or by any agent or servant of or other person authorised by the railway or canal company or harbour authority, and be removed from the place at which he is arrested, and conveyed as soon as conveniently may be before a Court of summary jurisdiction. 38 Vic sec. 78

Imprisonment for wilful act or neglect endangering life or limb.

Where any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which, in the opinion of the Court that tries the case, was reasonably calculated to endanger the safety of or to cause serious personal injury to any of the public or the persons employed in or about any factory, magazine, store, or registered premises, or any harbour, railway, canal, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default or personal negligence of the person accused, such person shall be liable, if the Court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months. *Ibid*, s

Punishment for defacing notices.

Every person who, without due authority, pulls down, injures, or defaces any notice, copy of rules, or document, when affixed in pursuance of this Act, or of the special rules, shall be liable to a penalty not exceeding 2*l.* *Ibid*, s

Mooring of Vessels.

By the "Dockyard Ports Regulation Act, 1865," which 28 & 2 c. 125.

applies to any port, harbour, or river in, on, or near to which Her Majesty has any dockyard, steam factory, arsenal, or wharf, the Admiralty (saving the jurisdiction of any conservancy) may make regulations, by order in council, as to the mooring of vessels and the storage of guns and combustibles.

(*aa.*) As to Commons (Metropolitan).

These provisions are inserted in all the bye-laws made by the Metropolitan Board of Works, and approved by Her Majesty's First Commissioner of Public Works, under "The Metropolitan Commons Act, 1866,"[1] 36 & 37 Vict., c. 86 (L. & P.); and the "Metropolitan Board of Works Act, 1877," 40 Vict., c. 8 (L. & P.)

"Nothing in these bye-laws shall be construed as prohibiting on the common—

"(*a.*) Infantry Military Drill.

"(*b.*) Encampment for a single night for a halt on a march to or from the metropolis.

"(*c.*) And (with the previous assent of the Board) a review of Her Majesty's Troops and Auxiliary Forces, which assent shall be subject to the following conditions:—

"When an adequate area for such drill, encampments, and reviews respectively has been fixed by the Board, that area only shall be used for such purposes.

"All damage done by Her Majesty's Troops and Auxiliary Forces to the surface of the common, which shall be capable of immediate reparation, shall be made good by the troops and forces so encamped before they leave the common, and any damage to the common which can be compensated only by pecuniary payment shall be so compensated by the Secretary of State for War.

"Any difference which may arise between the Secretary of State for War and the Board concerning the adequacy of the area fixed by the Board for the respective purposes aforesaid, or concerning compensation for damage done to the common shall be determined by the First Commissioner of Works."

(*bb.*) As to Ranges for Artillery.

As to searching for discharged projectiles:—[2]

The 36 and 37 Vict., cap. 86 (L. & P.), regulates Tooting Common, and in these Bye-Laws these conditions were inserted. They were afterwards adopted in Barnes and Bostall Heath Commons, and accepted as a general provision in all Metropolitan Commons $\frac{\text{London Dist. 8}}{550 \text{ \& } 824}$, and $\frac{\text{Genl. No. 8}}{746}$. As to Wormwood Scrubs, p. 173.

[2] It is clear that the property in projectiles after their discharge from any of Her Majesty's guns remains in the Crown. All the stores are marked, and the nature of the chattel would satisfy the finder who was the owner of it. A person therefore converting marked projectiles to his own use would be guilty of a criminal offence.

"The old rule," said the late Baron Parke, "that 'if one lose his goods and

Prohibition of sweeping, &c., near dock-yards, artillery ranges, &c.

It shall not be lawful for any person without permission[1] in writing from a public department, or from some person authorized by a public department in that behalf (proof of which permission shall lie on the party accused), to gather or search for stores, or to creep, sweep, or dredge in the sea or any tidal water within one hundred yards from any vessel belonging to Her Majesty, or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to Her Majesty, or from any of Her Majesty's wharves, or dock, victualling, or steam factory yards, or within one thousand yards from any battery or fort used for the practice of artillery, either by the Royal Artillery or by Militia or Volunteer Artillery, or in or on any part of the spaces or distances, whether covered with water or not, from time to time marked out as ranges for artillery practice for the use of Her Majesty's ships, or marked out and appropriated for ranges under the provisions of the Artillery Ranges Act, 1862. 38 & 39 Vict. c. 25, sec. 8.

Penalty.

If any person acts in contravention of this provision he shall be liable on summary conviction before a Justice of the Peace to a penalty not exceeding 5*l.*, or to be imprisoned for any term not exceeding three months, with or without hard labour.

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another find them, though he convert them *animo furandi* to his own use, it is no larceny,' has undergone in more recent times some limitations; one is, that if the finder knows who the owner of the lost chattel is, or if, from any mark upon it, or the circumstances under which it is found, the owner could be reasonably ascertained, then the fraudulent conversion, *animo furandi*, constitutes a larceny." And see Thurburn's case, "1 Den. Cr. Ca." 395, and "Buckley *v.* Gross," 3 Best and Smi., 570. Merry *v.* Green, 7 Meeson & Welsby, 631.

[1] See No. 23, Appendix, p. 240.

The 3-mile Zone.

[2] In relation to the protection which a nation derives from its ordnance, this zone around its coast has been defined. "The principle," said Judge Hopkinson of the American Bench, "on which nations claim this extension of their authority and jurisdictional rights for a certain distance beyond their shores is to protect their safety, peace, and honour from invasion, disturbance, and insult. They will not have their strand made a theatre of violence and bloodshed by contending belligerents. Some distance must be assumed. It varies by different jurists from one league to thirty, and again as far as a cannon will carry a ball." "Again," said the late Sir John Nicholl, "As between nation and nation the territorial right may, by a sort of tacit understanding, be extended to three miles, but that rests upon different principles, viz., that their own subjects shall not be disturbed in their fishing, and particularly in their coasting trade and communications between place and place during war; they would be exposed to danger if hostilities were allowed to be carried on between belligerents nearer to the shore than three miles; but no person ever heard of a land jurisdiction of the body of a county which extended to three miles from the coast." 2 Exch. Div. p. 79. 1 Rex. v. 49 Casks of Brandy, 3 Hagg. Ad., p. 290.

"The consensus," said Sir Robert Phillimore, "of civilised independent states has recognised a maritime extension of frontier to the distance of three miles from low-water mark, because such a frontier or belt of water is necessary for the defence and security of the adjacent state. It is for the attainment of these particular objects that a dominium has been granted over this portion of the high seas. . . . . According to modern international law, it is certainly a right incident to each state to refuse a passage to foreigners over its territory by land, whether in time of peace or war. But it does not appear to have the same right with respect to preventing the passage of foreign ships over this portion of the high seas. In the former case there is no *jus transitus;* in the latter case there is. The reason of the thing, that is, the defence and security of the state, does not require or warrant the exclusion of peaceable foreign vessels from passing over these waters; and the custom and usage of nations has not sanctioned it." The Queen *v.* Keyn, 2 Exch. Div. 81.

(*cc.*) AS TO RANGES FOR VOLUNTEERS.*

By the Volunteer Act, 1863, 26 & 27 Vict., c. 65, sec. 41, and Regulation of the Forces Act, 1871, sec. 17, it is provided that subject to the provisions of Part V. of the Volunteer Act, 1863, any volunteer corps may, with the assent of one of Her Majesty's Principal Secretaries of State, purchase, take on lease, or otherwise acquire any land or easement in land for rifle or artillery practice, and for the erection of butts, targets, batteries, and other accommodations for the use of the corps when practising with rifles or artillery—or any easement in land for the purpose of storing arms, making drill sheds, or any other military purpose approved by the Secretary of State as being conducive to the better efficiency of the Corps.

Power to corps to purchase land with consent of Secretary of State.

Before giving his assent, the Secretary of State shall send an inspector to the land for the purpose of ascertaining its capabilities for being converted into a rifle or artillery practice ground, with due regard to the safety and convenience of the public, and shall give or withhold his assent accordingly.

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* The approval of a range by the Secretary of State's officer does not exempt the Volunteers from any consequences arising from the user of it. "Banister *v.* Bigge," 34 Bea. Rep. 289.

Ranges over or across Highways.

L., p. 139. [1] In December 1860 the Lord Advocate of Scotland was asked to advise the Secretary of State upon two questions put to him by the Law Agent of the Department at Edinburgh—viz., "Would the General Turnpike Act authorise a prosecution against any of Her Majesty's officers for firing artillery or other firearms in pursuance of instructions, or of their ordinary duty from the battery at Whiteforeland Point across the turnpike road, if proper precautions were used to prevent accidents, though unsuccessfully? Will the road trustees or the public be entitled to interfere with or put a stop to the firing of the guns that may be placed in the proposed battery on any legal ground?" When he wrote thus:—"The General Turnpike Act does not in my opinion affect this question. It would be equally applicable to the guns of Edinburgh Castle or Leith Fort; but I am not prepared to say that at common law an artillery range can be permitted across a turnpike road unless the arrangements are such as to make it clear that no danger to passengers is involved. So much, however, depends on the particular circumstances and situation that I am not prepared to say that in the present case the memorialist's operations could be interfered with."

M.S. Cases, ol. 2, p. 377. In "Raphael *v.* Wigram" the Bill was by a landowner praying an injunction to restrain the defendant, a volunteer officer, (*a*) from firing rifle balls "into, through, or over the plaintiff's land; or, (*b*) from impeding access thereto by firing rifle balls across the roadway leading to the same land." The injunction was granted by the Master of the Rolls on the 25th July 1864, as to (*a*), but not as to (*b*).

How far the maxim "Cujus est solum ejus est usque ad cœlum" would give protection from the trespass of an aeronaut—has often been raised—Lord Ellenborough did not think it was a trespass to interfere with the column of air superincumbent on the land. He went on to say,—"I once had occasion to rule upon the circuit, that a man who, from the outside of a field, discharged a gun into it, so as that the shot must have struck the soil, was guilty of breaking and entering it. A very learned judge, who went the circuit with me, at first doubted the decision, but I believe he afterwards approved of it, and that it met with the general concurrence of those to whom it was mentioned. But I am by no means prepared to say, that firing across a field *in vacuo*, no part of the contents touching it, amounts to a *clausum fregit*. Nay, if this board overhanging the plaintiff's garden be a trespass, it would follow that an aeronaut is liable to an action of trespass *quare clausum fregit*, at the suit of the occupier of every field over which his balloon passes in the course of his voyage. Whether the action may be maintained cannot depend upon the length of time for which the superincumbent air is invaded." (See "Forest *v.* Overseers of Greenwich, 8 Ell. & Blac. 897, and Kenyon *v.* Hart, 6 B. & S. 249. As to the use of a highway for shooting purposes, see Queen *v.* Pratt, 4 *ib.*, p. 867.)

Pickering *v.* Rudd, 4 Camp., p. 220.

Power to Secretary of State to make byelaws.

By the Volunteer Act, 1863, sec. 38, it is further enacted that one of Her Majesty's Principal Secretaries of State, with a view to the safety and convenience of the public, may make byelaws for the regulation of shooting on grounds purchased, acquired, or used by any volunteer corps under the Act, and for the prevention of intrusion thereon during the times of shooting. Any such byelaws may impose a reasonable pecuniary penalty, not exceeding 5*l*., for any breach of a byelaw, so that the byelaw be so framed as to admit of part only of the maximum penalty being ordered to be paid; such penalties to be recoverable and applicable as penalties imposed by the Act are recoverable and applicable.

II. GENERAL VESTING ACTS RELATING TO ORDNANCE LANDS TRANSFERRED TO THE WAR DEPARTMENT.

The usual method of acquiring lands for defence or ordnance purposes until the close of the Peninsula war was by special Vesting Acts (usually two in number), which were passed at the instance of the Crown whenever the approach of war or the threat of invasion rendered such an acquisition prudent.

Vesting Acts of Anne's reign.

These Vesting Acts commence in the reign of Anne.

The first Act—as will be seen hereafter—usually vested the land required in certain Parliamentary Commissioners (named in the Act as the Speaker of the House of Commons, and other well-known persons) in trust for the several owners until they were paid the value of the land, and then in trust for the Crown.

The second Act, which followed in a year or two, confirmed and carried out the proceedings taken under the first Act, and appropriated the money voted to the payment of the landowners.

To print these statutes—which are little more than title deeds—*in extenso* would be useless, but the substance will be given, and all of them classified according to the stations to which they relate, and such special provisions as are needful to be kept in view will be printed.

By the 7th Anne, cap. 26, it is enacted that:—

The fi Vestin of Qu Anne's

Her Majesty, under the Great Seal of Great Britain, might authorise and appoint any number of persons to be Commissioners to make surveys of, and particularly describe such lands,

tenements, or hereditaments, as were proper to be purchased for the uses and purposes of the Act.

And, to the intent all encouragement and expedition might be given to so necessary a work, and that all impediments and obstructions removed, and all reasonable satisfaction given for all such lands, tenements, and hereditaments, as should be thought necessary to be taken and employed, or purchased, for the uses aforesaid; the said Commissioners, or any five, were thereby authorised and empowered to treat and agree with the owners, and others, interested in any such lands, tenements, or hereditaments: And in case there should be any person or persons, bodies politic or corporate, ecclesiastical or civil, that should wilfully refuse to treat and agree as aforesaid, or through any disability, by nonage, coverture, or special limitations, in any settlements, or by reason of any other impediment, could not dispose of their respective interests in such lands, tenements, or hereditaments; in every such case, the said Commissioners, or any five, were thereby authorised and required to issue forth their Warrant or Warrants to the Sheriff or Sheriffs of the respective counties, wherein such lands, tenements, or hereditaments, should lie, to impanel and return before the said Commissioners, at such times and places as should be appointed in such Warrant or Warrants, a sufficient jury, who, upon their oaths (which the said Commissioners, or any five, shall have power to administer), should inqure into the true value of all such lands, tenements, and hereditaments, and the estates and interests therein, as the said Commissioners, or any five or more of them, should judge requisite to be purchased for the purposes aforesaid; and such verdict or inquisition, as should be so found, and given in by the said jury, should be returned and certified to Her Majesty, into the High Court of Chancery, on or before the 23rd October, 1709.[1]

Any five of the Commissioners appointed to agree with the owners of the lands, &c.

Persons refusing to treat or incapable.

The Commissioners may issue Warrants to the Sheriff, to impanel a jury to enquire into the true value.

And their verdict to be certified into Chancery, by the 23rd October 1709.

nd Act. The *second* Act (the 8 Anne, cap. 21) *recites* that Her Majesty was pleased by Letters Patent, bearing date the 17th day of June, in the 8th year of Her reign, to authorise certain persons therein mentioned to make surveys of, and particularly to describe all such lands, tenements, and hereditaments, as were proper to be purchased for the uses and purposes aforesaid, and to execute all powers, directions, clauses, matters, and things, in the said Act contained: And that five or more of the said Commissioners had made surveys of, and particularly described by lines, stakes, boundaries, and plans, such lands, tenements, and hereditaments, as they judged proper to be purchased for the uses and purposes in the Act, and had likewise treated and agreed with several of the owners, and others, interested in the said lands, tenements, and hereditaments, who were able and willing to treat and agree for the same.

Reasons for passing this Act.

Section 2 *recites* that several proprietors of lands which were by said Commissioners judged proper to be purchased, had insisted upon extravagant rates, and refused to agree with the said Commissioners, without unreasonable gain to themselves, and other proprietors, by reason of nonage, coverture, or especial limitations in settlements, were disabled to treat and agree, as aforesaid, for which reasons the said Commissioners, pursuant to the Act, issued out their Warrants to the Sheriffs of each county where the said several lands respectively lay, to impanel and return before them, at such times and places as by such Warrant were appointed, a sufficient jury, and at such times and places respectively a sufficient jury appeared, who, upon their oaths, did enquire into and present the true value of all such lands, and the estates and interests therein, as the said Commissioners could not agree, for as aforesaid, which several verdicts or inquisitions had been returned and certified, with the whole proceedings thereupon, to Her Majesty, into the High Court of Chancery, pursuant and according to the said Act; and it being highly necessary that all and singular the proprietors, owners, and possessors, should be paid their several and respective sums agreed for, and the several sums assessed by the juries on oath, as aforesaid, and that the several lands should, upon payment of the said sums, be vested in Her Majesty, Her Heirs and Successors, to and for the uses and purposes aforesaid;

After 10th April 1710 the messuages, &c., specified by inquisitions returned, are settled in trustees for the use of the respective owners.

And then *enacts* that all and singular the messuages and lands, tenements, and hereditaments, which had been judged proper to be purchased, and were staked out as aforesaid, and were mentioned, set forth, and specified by the several verdicts or inquisitions returned as aforesaid, should, from and after the 10th day of April 1710, be, and were thereby vested and settled, and declared, and taken to be in the actual and real possession and seisin of the Right Honourable Sir Richard Onslow, Baronet, Speaker of the House of Commons, the Honourable Charles Powlet, commonly called Lord Marquis of Winchester, Thomas Jervoise, Esquire, Sir Thomas Palmer, Baronet, David Pollhill, Esquire, Sir Francis Masham, Baronet, and Thomas Middleton, Esquire, their heirs and assigns, in trust, nevertheless, for such person and persons, bodies politic and corporate, as at or immediately before the time of making that Act where the several and respective owners, proprietors, and tenants thereof, according to there several estates and interests therein, at the same time in possession, reversion, remainder, or otherwise, until such estates and interests should be respectively adjudged and determined, and the several sum or sums of money shall be paid, or certificates should be made forth and deposited, as thereafter was directed, for the same, in manner and form as thereafter was enacted, mentioned, and expressed.

Section 3 *recites*, because several controversies and debates might arise touching and concerning the respective interests of

the proprietors and tenants, as to their several demands to the respective sums agreed for and assessed as aforesaid, and because several persons claimed or pretended to a right in one and the same messuage and tenement, and likewise because the Commissioners had not the power to oblige any proprietor or tenant to produce their deeds or writings, which should make their several rights and interests appear;

And then *enacts*, that Her Majesty might appoint Commissioners, who, not being parties interested, were thereby authorised and empowered, and should and might summarily, and without the formalities and proceedings in Courts of Law and Equity, proceed, act, and determine, by and upon the testimony of witnesses upon oath (which oath they, or any five of them, were thereby empowered to administer), inspection and examination of deeds, writings, and records, or by all or any of the said ways, or otherwise, according to their discretion, all and all manner of rights, estates, and interests, and all controversies, debates, and questions, which should happen and arise between any person whatsoever, touching or concerning any matter or thing relating to any of the premises, or any part thereof, and should have power to send for any person or persons, and oblige them to produce their deeds or writings upon oath, relating to any of the same; and the said Commissioners, or any five or more of them, were thereby required to cause all their judgments and decrees to be entered fairly in books; which judgments and decrees should expressly mention and specify the respective house or houses, number of acres or parcels of land, with their several abuttals and boundaries, together with the name or names of every person or persons interested respectively in the same, and the respective sum or sums agreed for, by and between the aforesaid Commissioners and proprietors, or assessed by a jury; which judgments and decrees should likewise be fairly engrossed on parchment, and certified to the clerk of the Crown, in Chancery, and to the Queen's Remembrancer, in Her Majesty's Court of Exchequer, and such judgments and decrees made as aforesaid should be final, and should conclude all and every person and persons, bodies politic and corporate, their heirs, successors, executors, administrators, and assigns respectively, notwithstanding any disability or incapacity whatsoever.

The Queen may appoint Commissioners, who may determine all rights. The Commissioners to enter their decrees in books, &c., which decrees shall be certified to the Clerk of the Crown, and be final.

Section 4 provides for the notice to be given of the inquiry; the mode of conducting the same; that the decrees should be final.

Section 5 provides how the money decreed should be paid, and then proceeds, "that immediately from and after such payment, the trustees before mentioned shall be deemed and adjudged to stand seised of such part or parcel of the premises as shall be so paid for, to and for the use of Her Majesty, Her heirs and successors, for ever."

No private building to be erected.

Section 7 enacts,[1] that no private building or buildings shall be made or erected upon any of the lands vested in Her Majesty, as aforesaid; and that the whole profits arising, or that shall thereafter arise from the same, be thereby appropriated and applied for and towards the erection and reparations of the respective fortifications of each place; and all and singular the premises shall be thereby enacted and declared to be unalienable from the Crown, neither shall any part of the premises be demised or demisable, otherwise than during pleasure only.

Vesting Acts of Geo. III.'s Reign.

The Seven Years' War was the next occasion when recourse was had to these extraordinary powers. The preamble of the 31 Geo. II., cap. 39, states, "that the great preparations made by France for invading these realms" had obliged the officers of the Ordnance to enter upon private lands for erecting and making fortifications and intrenchments thereon to protect the dockyards and these lands (which were specified in the preamble) were vested in the Speaker and other persons upon the usual trusts.[2] By this and by later Acts[3] not only the owners of lands which were so taken but of other lands adjoining were authorised to come before the Commissioners for compensation for any damage received by them from making and raising the intrenchments, lines, and fortifications.

Vesting Acts of Geo. II.'s Reign.

The next Act (2 Geo. III., cap. 37[4]) states in its preamble that as the coasts of Sussex, Kent, and Southampton were exposed to hostile invasion, the late King had ordered the Ordnance officers to erect forts and batteries there, which having been done with the landowners consent, these sites (12 in number and enumerated) were vested by the Act in the usual manner.

1780.

The apprehension of invasion from the allied forces of France and Spain in 1780, and the continuance of the then war led to

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[1] This section is found in some of the later Vesting Acts, and a popular view of the subject was that it gave the successors in title, and also the adjacent owners, a right to insist upon its observance by the Crown; in effect that it was a trust declared for their benefit. In a recent case, where a Railway Company urged this restriction as limiting a right of way for non-building purposes, the late Lord Justice Mellish observed, "What has been said about the statute of Anne really has nothing to do with the case. Of course that restriction was not passed for the benefit of the company, and the company are not entitled to the benefit of it. The only effect of that restriction was that the Crown could not part with the land without obtaining an enabling Act of Parliament, but it was no part of the bargain with the company that the Commissioners of the Office of Woods would not obtain such an Act. The lands became useless for the purpose of defence, and the Crown never bargained with the compnny that it would not part with them, and that it would not sell the lands for the best price, or have them employed in any manner which might be most suitable.

"Therefore I am of opinion that there is nothing to restrain the Crown from selling the land for any purpose it thought fit, and nothing to restrain the purchasers from the Crown from using these rights of way across the level crossings for any purpose that may be convenient for the enjoyment of the land."

United Land Company v. Great Eastern Railway Company, 10 Law Reports (Chan. App.) p. 591.

[2] Carried out by 32 Geo. II., cap. 30 and 33 Geo. 2, cap. 11.

[3] See sec. 9 of 20 Geo. III., cap. 38, and sec. 10 of *ib.*, cap. 49.

[4] Carried out by 4 Geo. III., cap. 35.

several Vesting Acts[1] being passed. In the second group[2] of these Acts there was introduced a provision for keeping lands free from building and paying compensation for such rights. The same Acts also preserved the free use of all wells and springs of water in the lands taken for the persons entitled to enjoy the same.

In the third group[3] a somewhat different method of procedure was resorted to. All the land which the Crown could possibly want was vested in the statutory trustees, and a time was then named for the Principal Officers of the Ordnance to sign a declaration setting forth therein which of these lands they needed to purchase and which to keep clear. The residue of the lands, viz., those which were included in the Act but not in the declaration, were thereupon immediately to revest in the former owners.

III., ess. 2).

The sections for these objects were as follows: The Master-General or Principal Officers of His Majesty's Ordnance shall, and he or they is and are hereby required, on or before the 1st January 1785, to make a declaration in writing, signed by him or them, or any three of them, wherein shall be specified the particular parts or parcels of the lands, tenements, and hereditaments hereby vested, which shall be wanted for the purposes aforesaid; and of such declaration, on or before the time aforesaid, to give or leave notice in writing, to or at the most usual place or places of abode of the several owners or proprietors thereof respectively; and such or the like notice shall be affixed on the church doors of the several parishes wherein the lands, tenements, and hereditaments, to be comprised or mentioned in such notice, shall respectively lie: and that all and singular the lands, tenements, and hereditaments hereby vested in trustees for the purposes aforesaid, whereof no such declaration shall be made, and notice given as aforesaid, shall be, and the same are hereby declared to be, from and after the said 1st January 1785, revested in the several owners and proprietors thereof respectively, for such estates and interests as they had therein respectively before the passing of this Act (subject nevertheless to such restriction as is next hereinafter mentioned); anything herein contained to the contrary thereof in anywise notwithstanding.

Officers of Ordnance, before Jan. 1, 1785, in a written declaration, to specify the particular vested lands, &c., which will be wanted for the purposes aforesaid.

And all the lands not so specified shall be revested in the former proprietors.

13. And whereas certain parts of the lands, tenements, and hereditaments, vested by this Act, may be wanted only for the purpose of restraining the proprietors thereof from erecting any building, structure, or edifice thereon, which, from their too

Clause relative to lands, &c., wanted only for restraining the proprietors from building thereon.

[1] 1st Group.—20 Geo. III., cap. 38 and 49, which were carried out by 21 Geo. III., cap. 10, and 22 Geo. III., cap. 12, as amended by 21 Geo. III., cap. 61., and 24 Geo. III., cap. 29 (Sess. 2).

[2] 2nd Group.—22 Geo. III., cap. 80, carried out by 23 Geo. III., cap. 71, as to Chatham.

[3] 3rd Group.—23 Geo. III., cap. 87, amended by 24 Geo. III., cap. 29 (Sess. 2), and carried out by 26 Geo. III., cap. 94.

great vicinity may be prejudicial to the said fortifications erected, or to be erected, for the defence of the said docks, ships, and stores; be it therefore enacted, that no private building, structure, or edifice (other than and except barns, hovels, or other buildings to be composed of wood only) shall at any time or times after the passing of this Act be made or erected upon any of the lands so vested by this Act as aforesaid; and that upon such declaration being made and signed, and notice thereof given and affixed as is hereinbefore mentioned and directed, the jury so to be empanelled as aforesaid shall thereupon assess, instead of the value of the lands hereby vested, which shall not be contained or specified in such declaration, the damages which in their estimation such proprietor or proprietors shall or may sustain by reason of such restriction as aforesaid; and that the damages so to be assessed by the jury for such restriction shall be paid to the several owners and proprietors of such lands respectively, out of the aids to be granted in Parliament, in the same manner as is hereinbefore directed respecting the payment to be made for the absolute purchase of the lands, tenements, and hereditaments which shall be appropriated for the public service hereinbefore mentioned; and if any person or persons shall, after the assessment of such damages, erect, or cause to be erected, on any parts of such lands, any building, structure, or edifice (other than as aforesaid), then, and in every such case, the Master-General or Principal Officers of His Majesty's Ordnance for the time being, or any person or persons authorised by him or them, shall, and he or they is and are hereby empowered to abate or pull down the same, and level the ground on which such building, structure, or edifice shall have been so erected.[1]

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[1] The Portsmouth Commissioners made this award of compensation, under sec. 13, in respect of these lands (see Judgments & Decrees, vol. 3, pp. 71–73) :—

We also find that the said Henry Abraham is the proprietor of all that piece or parcel of land commonly called or known by the name of "the Bishops," containing by estimation three acres and one rood, or thereabouts, bounded as in the said Act mentioned, and that the damages which in our estimation the said Henry Abraham will sustain, by reason of such restriction, from erecting any buildings except as in the said Act is mentioned, on the said piece or parcel of land called "the Bishops," are 13*l.*

We further find that Samuel Marshall, Esq., and Thomas Geary, Esq., are the proprietors in undivided moieties, subject as hereinbefore mentioned, of all that piece or parcel of land commonly called or known by the name of the "Outer Sluice Cuts," containing by estimation five acres and nine perches, or thereabouts, and which, with another piece of land called the "Inner Sluice Cuts," hereinbefore mentioned, is bounded as in the said Act mentioned, and that the damages which in our estimation will be sustained by reason of such restriction from erecting any buildings (except as in the said Act mentioned) on the said piece of land called the "Outer Sluice Cuts," are 28*l.* 8*s.* 9*d.*

We further find that Alexander Chorley, Esq., is the proprietor of all that piece or parcel of land commonly called or known by the name of the "Eleven Acres," containing by estimation eight acres, two roods, and twenty-nine perches, or thereabouts, bounded as in the said Act mentioned, and also of all that other or remaining part, containing two acres, two roods, and seven perches, or thereabouts, of all those two pieces or parcels of land adjoining to each other, commonly called or known by the names of the "Great Kiln Close" and "Little Kiln Close," hereinbefore mentioned, and that the damages which in our estimation the said Alexander Chorley will sustain by reason of such restriction from erecting any buildings (except as in the said Act is mentioned) on the said lands lastly above described, are 63*l.* 2*s.* 8½*d.*

The French revolutionary war obliged the Government to have recourse to Parliament for the further acquisition of land on the south coasts of Kent and Devon, and under the Acts then passed the camp at Shorncliffe was acquired and Woolwich Arsenal enlarged.[1]

1802 to 1815.

During the war commencing in 1802 large acquisitions of land were made and several Vesting Acts were passed. In 1802–4, Woolwich[2] was largely increased. In 1804, Weedon[3] and Warley[4] were acquired for ordnance store purposes, and the lines at Chatham were extended. In 1806,[5] Portsmouth was better secured, and the Dover lines extended. In 1807, the lands for the formation of the Royal Military Canal and Road were purchased. And lastly, in 1814–15, large tracts of land were acquired for the extension of the Hilsea and Portsmouth lines.[6]

In the year 1821, these and all other lands which at various times had been purchased for the use of the Ordnance, and had been conveyed to different persons in trust for His Majesty and placed under the charge of the Department were, by the 1 and 2 Geo. IV., c. 69, vested in the Principal Officers of the Ordnance for the time being and their successors in trust for the Crown.

Statutory powers were also thereby given to the Ordnance Board for the management of this property, which were extended by the 2 Wm. IV., c. 25, and remained in force until the law was consolidated by the Defence Act, 1842, the provisions of which statute have been already set forth in the earlier part of this work.

III. THE STATUTES UNDER WHICH THE BARRACKS OF THE UNITED KINGDOM HAVE BEEN ACQUIRED.

I. As to Barracks in England.[7]

1792. The Barrack-Master-General.

In 1792 a Barrack-Master-General was appointed by the Crown, under circumstances of which the history is to be found elsewhere, and in 1805 it was stated in the preamble of the 45 Geo. III., cap. 69, to be expedient that the messuages, lands, tenements, and hereditaments, which had at various times been purchased for the service of the Barrack Department, or which were then held by or vested in the late Barrack-Master-General,

[1] 34 Geo. III., cap. 76, and 37 Geo. III., cap. 66, carried out by 38 Geo. III., cap. 34.

[2] 44 Geo. III., cap. 79, carried out by 46 Geo. III., cap. 130. 42 Geo. III., cap. 89., 43 Geo. III., cap. 35–65, carried out by 44 Geo. III., cap. 107.

[3] 43 Geo. III., cap. 66, 44 Geo. III., cap. 78.

[4] 44 Geo. III., cap. 79, carried out by 46 Geo. III., cap. 130.

[5] 54 Geo. III., cap. 43, carried out by 55 Geo. III., cap. 123.

[6] 46 Geo. III., cap. 105, carried out by 49 Geo. III., cap. 39.

[7] As to the history of this establishment, Military Forces, vol. i., p. 240, *et seq.*

or the present Barrack-Master-General, or any other person or persons for the use of the said service; and also that all messuages, lands, tenements, and hereditaments, which might thereafter be purchased for the said service, should be vested in the Barrack-Master-General for the time being, and his successors in the said office, in trust for His Majesty, his heirs and successors, and for the purposes of the said service, or for such other public service or services as His Majesty may from time to time direct.

All premises (except Copyholds) conveyed to the late and present Barrack-Master-General, &c., for the Barrack-Department, and all other premises hereafter to be purchased for that Department, shall be vested in the Barrack-Master-General for the time being, in trust for His Majesty, for public purposes.

The Act then enacted, that all and singular the messuages, lands, tenements, and hereditaments, which had been conveyed to or were thus vested in Lieutenant-General Oliver De Lancey, late Barrack-Master-General, or Lieutenant-General George Hewitt, now Barrack-Master-General, or any other person or persons in trust for His Majesty, his heirs and successors, for the service of the Barrack Department, and all erections and buildings erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging (other than and except such messuages, lands, tenements, and hereditaments, as may be of copyhold tenure), and, from and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements, and hereditaments, which should at any time or times thereafter be purchased by the Barrack-Master-General for the time being, for the service of the Barrack Department, and all erections and buildings erected and built thereon, with the rights, members, easements, and appurtenances to the same respectively belonging, should be and become and remain and continue vested in the Barrack-Master-General for the time being, and his successors in the said office, according to the nature and quality and estate and interest of and in the same hereditaments and premises respectively; and that upon the death, resignation, or removal of the present and every future Barrack-Master-General, all such messuages, lands, tenements, and hereditaments respectively (other than and except as aforesaid) should become vested in and be held by the succeeding Barrack-Master-General, and so in perpetual succession according to the nature and quality and estate and interest of and in the same respectively, in trust for His Majesty, his heirs and successors, for the service of the Barrack Department, or for such other public service or services as His Majesty, his heirs and successors, shall from time to time be pleased to direct.

1808. The Barrack Commissioners.

In or prior to the year 1808 the affairs of the Barrack Department were transferred to Commissioners appointed by the Crown, and it became necessary that all the messuages which by the last-mentioned Act had been vested in the Barrack-Master-General, and all other messuages in any manner used and occupied for the service of the Barrack Department, should be vested in the said Commissioners. Thereupon the 48 Geo. III., cap. 122, was passed, which vested these estates in Commissioners and gave them powers to sell the property, with Treasury sanction, and to bring and defend actions under their official title.

[I., s. 1. The first section enacted that all messuages, lands, tenements and hereditaments which were by the prior Act vested in the Barrack-Master-General for the time being; and also all messuages, lands, tenements, and hereditaments, which had since been purchased or taken by any person or persons whatever in trust for His Majesty, his heirs and successors, for the service of the Barrack Department, either in fee or for any lives, or any term of years or any lesser interest; and all erections and buildings erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging (other than and except such messuages, lands, tenements, and hereditaments, as may be of copyhold tenure); and from and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements, and hereditaments, which should at any time or times thereafter be purchased by the Commissioners for the affairs of barracks for the time being, or by any other person or persons by their order for the service of the Barrack Department; and all erections and buildings erected and built thereon, with the rights, members, easements, and appurtenances to the same respectively belonging, should be and become and remain and continue vested in the Commissioners for the affairs of barracks for the time being, and their successors in the said office, according to the nature and quality, and estate and interest of and in the same hereditaments and premises respectively; and that upon the death, resignation, or removal of the present Commissioners, or any or either of them, or of any future Commissioner or Commissioners, all such messuages, lands, tenements, and hereditaments respectively (other than and except as aforesaid) should become vested in and be held by the succeeding Commissioners, and so in perpetual succession according to the nature and quality, and estate and interest of and in the same respectively, in trust for His Majesty, his heirs and successors, for the service of the Barrack Department, or for such other public service or services as His Majesty, his heirs and successors, for the service of the Barrack Department, or for such other public service or services as His Majesty, his heirs and successors, for the service of the Barrack Department, or for such other public service or services as His Majesty, his heirs and successors, shall from time to time be pleased to direct.

All premises (except copyholds) vested in Barrack-Master-General under recited Act, and all premises since purchased or which may be purchased for the Barrack Department, shall be vested in the Commissioners for Affairs of Barracks, in trust for His Majesty for public purposes.

5. The 5th section authorised and empowered the Commissioners for the Affairs of Barracks to bring, prosecute, maintain, or defend[1] any action or suit in respect of or in relation to any messuages, lands, tenements, or hereditaments by this Act vested in them as aforesaid, or of any trespass committed thereon, or damage or injury done thereto; and also in respect of or in relation to any furniture, stores, or other articles, matters, or things, or any goods or chattels whatever belonging to the Barrack Department or in the custody or charge of, or used by any officer of the Barrack Department, or person

Commissioners may bring and defend actions.

[1] See note 2, p. 37, *ante*.

employed therein; and also for the breach or non-performance of any or in respect of or in relation to any contract or agreement made by any person or persons whatever for the service of the Barrack Department, or any other matter or thing relating to any of the affairs under the management or control of the said Commissioners; and in every such action or suit the Commissioners for the time being should be called the Commissioners for the Affairs of Barracks, without naming them or either of them; and no such suit should abate by the death, resignation, or removal of such Commissioners; any thing in Act or Acts of Parliament, or law or laws to the contrary notwithstanding.

1817. The Barrack Comptroller.

In or prior to the year 1817, the affairs of the above department were transferred to a "Comptroller," and another vesting or transfer Act was needed. Accordingly, the 57 Geo. III. c. 9, was passed, not only for vesting the barrack property but for granting certain powers to the Comptroller.

Premises vested in Commissioners for the Affairs of Barracks under recited Act, and all messuages, &c., since purchased, or which may be purchased for the Barrack Department, shall be vested in the Comptroller of the Barrack Department, but on the same terms as they are now held in trust for His Majesty.

57 Geo. III., c. 9, sec. 1.

The first section enacted that all messuages, lands, tenements, and hereditaments which were by the prior Act vested in the commissioners for the affairs of barracks for the time being, and also all messuages, lands, tenements, and hereditaments which had since been purchased or taken, or have in any manner then held by any person or persons whatever in trust for or for the use of his Majesty, his heirs and successors, for the service of the Barrack Department, either in fee or for any lives, or any term of years of any other or lesser interest, and all erections and buildings erected and built thereon, together with the rights, members, easements and appurtenances to the same respectively belonging (other than and except such messuages, lands, tenements and hereditaments as may be of copyhold tenure), and from and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements and hereditaments which should at any time or times thereafter be purchased by the Comptroller of the Barrack Department for the time being, or by any other person or persons by his order, for the service of the Barrack Department, and all erections and buildings then erected and built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, should be and become, and remain and continue vested in the Comptroller of the Barrack Department for the time being, and his successor in the said Office, according to the nature and quality and estate and interest of and in the same hereditaments and premises respectively; and that upon the death, resignation or removal of the Comptroller, all such messuages, lands, tenements and hereditaments respectively (other than and except as aforesaid) should become vested in and be held by the succeeding Comptroller, and so in perpetual succession according to the nature and quality and estate and interest of and in the same respectively, in trust for his Majesty, his heirs and successors, for the service of the Barrack Department, or for such other public service or services as his Majesty, his heirs and successors, shall from time to time be pleased to

direct: Provided always, that nothing therein contained should be construed to vest the said premises upon other terms, with respect to former proprietors, than those on which the same now therein vested in the person or persons holding the same in trust for his Majesty.

. III., c. 2. The second section empowered the Comtroller to sell, or in any manner to dispose of, or let or demise any of the messuages, lands, tenements cr hereditaments which should be vested in the Comptroller, either by public auction or private contract; and in due form of law, to convey, assign and make over the same to any person or persons who should be willing to purchase or take the same respectively; and also to do any other act, matter or thing, in relation to any such messuages, lands, tenements and hereditaments, which should be deemed beneficial by the Comptroller and the Treasury to the Public Service, in relation thereto or for the better management thereof, which might be done by any person having a like interest in messuages, lands, tenements or hereditaments; and no contracts, assignments, and conveyances, in law or equity, theretofore made by the said Commissioners for affairs of barracks, should be deemed invalid, or be in any manner impeached by reason of no offer having been first made to any person having adjoining lands, or of whom the same were first purchased; anything in the said recited Acts to the contrary notwithstanding.

Comptroller, with consent of the Treasury, may sell premises, and to do any other act in relation to the premises that should be deemed beneficial for the public service.

By the fourth section the Comptroller was empowered, in words identical with those used in sec. 5 of the last Act, to

ec. 9. bring and defend actions; and the ninth section enabled all bodies politic or corporate, ecclesiastical or civil, and all feoffees or trustees for charitable or other public purposes, and all tenants for life and tenants in tail, and the husbands, guardians, trustees, committees, curators or attorneys, or such of the owners or proprietors of or persons interested in any lands or hereditaments which had been taken or were then or which might thereafter be held by his Majesty, or by any person in trust for his Majesty, or in trust for the public service, as should be femes covert, infants, lunatics, idiots or persons beyond the seas, or otherwise incapable of acting for themselves, to contract and agree with such Comptroller or other person or persons authorised by him, either for the absolute sale of any such lands or hereditaments, or for the enfranchisement of any copyhold, or sale of any reversion after any estate or estates for lives, or for the grant of any lease, either for any term of years certain therein, or for such period as the exigency of the public service should require, and to convey, surrender, demise or grant the same accordingly; and all such contracts, sales, conveyances, enfranchisements, surrenders, leases and agreements should be valid and effectnal in law to all intents and purposes whatsoever.

Bodies politic, &c., may agree for enfranchisement and for sale of lands.

Such contracts, &c., valid.

ec. 10. By the tenth section the money in any such case of purchase was to be paid into the hands or into the name of the deputy of the King's Remembrancer of His Majesty's Court of Exchequer at Westminster, Edinburgh, or Dublin respectively, for the

Purchase money to be paid to Deputy Remembrancer

of Exchequer for owners of land, &c., and to be certified to the Exchequer. Copy of certificate signed by Deputy Remembrancer. Evidence.

time being, for the use and benefit of the owners and proprietors of such lands and hereditaments who were thereby authorized and required to receive or accept and to give a discharge for the same, and upon the acceptation or receipt thereof to sign a certificate to the Barons or Judges of the said Courts of Exchequer respectively under his hand, purporting and signifying that such money or other consideration was received or accepted by and paid to him in pursuance of the Act for the use and benefit of such owners or proprietors who shall be named and described in such certificate; and the certificate should be filed or deposited in the said Court of Exchequer at Westminster, Edinburgh, or Dublin respectively; and the Deputy Remembrancer was thereby required, upon receipt of any such sum or sums of money as aforesaid, to pay the same into the Bank of England, or Bank of Scotland or Royal Bank of Scotland, or Bank of Ireland, as the case might require; and immediately upon the filing or depositing of such certificate the said lands or hereditaments should be and become vested in the said Comptroller or other person for the public service, to the use of His Majesty, his heirs and successors.

1822. The Board of Ordnance.

In the year 1822 these (like the barracks in Ireland) were transferred to the Ordnance Board by the 3 Geo. IV., cap. 108. After reciting the several Acts previously referred to, and that the affairs of the Barrack Department were then transferred to the Department of His Majesty's Ordnance, and that it was therefore necessary that all messuages, lands, tenements, and hereditaments which were by the last-named Act, or had since become vested in the Comptroller of the Barrack Department, and all other messuages, lands, tenements, and hereditaments, in any manner used and occupied for the service of the Barrack Department, should be vested in the principal officers of His Majesty's Ordnance for the time being.

All messuages, lands, &c. which by recited Act 57 Geo. III., cap. 9, were vested in the Comptroller of the Barrack Department, and also such as have since been purchased or held in trust for the Barrack Department (except copyholds) shall be vested in the Principal Officers of the Ordnance, in

The first section enacted that all messuages, lands, tenements, and hereditaments in that part of the United Kingdom of Great Britain and Ireland called Great Britain, which were by the said recited Act vested in the Comptroller of the Barrack Department for the time being, and also all messuages, lands, tenements, and hereditaments which had since been purchased or taken, or were in any manner then held by any person or persons whatever in trust for or for the use of His Majesty, his heirs and successors, for the service of the Barrack Department, either in fee, or for any life or lives, or any term or terms of years, or any other or less interest, and all erections and buildings erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging (other than and except such messuages, lands, tenements, and hereditaments as might be of copyhold tenure), should be and become and remain and continue vested in the principal officers of His Majesty's Ordnance for the time being, and their successors in the said office, according to the res- 3 Geo. c. 108,

pective nature and quality of the said messuages, lands, tenements, and hereditaments, and the several estates and interests of and in the same hereditaments respectively, in trust for His Majesty, his heirs and successors, for the service of the said Ordnance Department, or for such other public service or services as His said Majesty, his heirs or successors, shall from time to time by any Order in Council be pleased to direct.

trust for public services.

II. As to Barracks in Ireland.[1]

Prior to 1717, these appear in many instances to have been built on sites the right of the Crown to which was so precarious that in that year a Vesting Act was required to give fair and reasonable "satisfaction for the lands and tenements whereon the barracks were then built or building." Accordingly, the 4 Geo. I., cap. 7 (of the Irish Parliament) was passed, which enabled the Crown to appoint Commissioners (having powers conferred upon them) to agree with the owners, or, failing such agreement, then to summon a jury to assess the compensation.

1 Geo. I., c. 7, sec. 2.

The third section enacted,[2] that all and singular the said lands, tenements, and hereditaments, for which any contracts or conveyances shall be made, or verdict or inquisition found, according to such surveys, and as the same shall be bounded and abutted by the said Commissioners, immediately after payment of such sum and sums of money as shall be agreed to be paid for the purchase of the same, or contract entered into for payment of an annual rent; as also from the time of such verdict or inquisition found and returned into the Exchequer, shall be vested in His Majesty, his heirs and successors, for the use of the said barracks,[2] unalienable from the Crown, notwithstanding any disability or incapacity whatsoever.

The lands immediately vested in the King from such time for said uses, unalienable, notwithstanding any disability, &c.

Ibid., sec. 4

The fourth section enacted, that the yearly rents so to be contracted for, or assessed, by such verdict or inquisition as aforesaid, shall be inserted on the military list of the present and all future establishments of His Majesty's expense of this kingdom, according to such contracts, verdicts, and inquisitions, and paid and payable unto such owners, proprietors, and tenants, their several and respective heirs, executors, administrators, and assigns, according to their several and respective estates and interests in the said several and respective lands, tenements, and hereditaments, without any further warrant than this Act, and without any deduction, defalcation, or abatement, for or on account of pells, poundage, or other fees, charges, or deductions whatsoever.

Said yearly rents to be inserted on the military list, and payable to owners without warrant or deduction.

These powers, which were first temporary, were extended and continued by various Acts,[3] until they were made perpetual by the 7 Geo. III., cap. 6, which latter Act also vested "in His

[1] See the History of the subject, Military Forces, vol. i., pp. 225–7.
[2] I have deemed it best in the Irish Statutes often to print the text verbatim.
[3] 10 Geo. I., c. 4, and 21 Geo. II., c. 9.

Majesty, his heirs and successors, for the use of the said barracks," all lands purchased by or let to the trustees of the barracks appointed by Letters Patent of King William III., dated the 24th December 1700.

Commissioners of Barracks may upon communication with Lords of Treasury, and by direction of Lord Lieutenant, take leases of grounds or houses, &c.

These further powers were given "to the Commissioners or Overseers of the Barracks" by the 36 Geo. III., cap. 22 (I.) 36 Geo c. 22, s

By the direction of the Chief Governor or Governors of this kingdom for the time being, to take and accept of grants, or leases of lands, grounds or houses, either in fee simple, fee farm, or for lives with or without renewals, or for any term of years that shall be found expedient; the purchase money or monies nevertheless to be paid, or secured to the grantors, owners, proprietors, or sellers, and the yearly rents contracted for, or to be assessed by such leases, to be paid and secured to the respective landlords in the same manner, as is prescribed in and by the several Acts in force, for the regulation of the barracks and other public works.

Powers of juries as herein.

In case of difference of opinion a jury was to be empanelled, not only to inquire into the true yearly value of such lands, tenements, and hereditaments, as may be expedient to take in lease, but also to inquire into, and make return of the full value of such lands, tenements, and hereditaments, as it may be necessary to purchase for the use of His Majesty, his heirs and successors, for the purposes in the said former Acts mentioned. *Ibid*, se

In cases where leases are not, or cannot be executed, commissioners shall cause leases to be prepared, &c., as herein.

The third section provided the means of obtaining a lease compulsorily, thus, in case the person to whom the rent shall legally belong, shall refuse or neglect, or by reason of non-age, coverture, or any other disability, shall not have it in his, her, or their power, to make and execute a proper lease of such lands, tenements, or hereditaments so valued, at a yearly rent or rents as aforesaid, then the said Commissioners shall cause a lease, with the usual covenants and clauses between landlord and tenant to be prepared, of which lease they shall execute a counterpart, which lease shall be returned to and lodged in His Majesty's Court of Exchequer, with the inquisition or inquisitions found by the jury or juries, within the time prescribed by the former Acts; and that if such person shall for the space of thirty-one days next after lodging such inquisition and lease, refuse or neglect to excute such lease, and deliver up the possession of the premises comprised therein to the said Commissioners, that then and in every such case it shall and may be lawful for the said Commissioners to apply to the Chancellor, Treasurer, and Barons of the said court, for an injunction to be directed to the Sheriff or Sheriffs of the counties wherein such lands, tenements, or hereditaments shall be situate, to put the said Commissioners, or their attorney lawfully authorised, into the full, quiet, and peaceable possession thereof, which court shall and may thereupon make an order for such injunction, unless good cause be shown to the contrary. *Ibid*, se

The other sections related to carrying out the compulsory purchase of land, and to the relief which aggrieved parties could obtain by applying to the Courts of Civil Judicature.

At the eve of the rebellion additional powers were given by the Irish Parliament enabling *one* to execute all the powers of any *three* Commissioners (the previously constituted legal quorum). In the preamble of the 39 Geo. III., cap. 26 (I.), it was

o. III., sec. 1. stated, it is often times found expedient on account of the great increase of the military establishment in this kingdom, to send some one of the said Commissioners into the several districts of this kingdom, for the purpose of expediting and providing quarters and accommodation for His Majesty's troops; and then enacted that the Lord-Lieutenant, by order under his hand, to authorise and empower any one of the said Commissioners or Overseers of Barracks for the time being, to be mentioned in the said order, to perform and execute all or any of the several powers in the said recited Acts, and patents or commissions contained, in as full and ample a manner as the same may now be performed by any three or more of the said Commissioners or Overseers of Barracks, under and by virtue of the said several Acts of Parliament hereinbefore mentioned, or any other Acts of Parliament that now are or shall hereafter be in force in this kingdom, for empowering or otherwise regulating or directing the conduct and powers of the said Commissioners of Barracks. And all his orders, contracts, and requisitions were to be held to be as good, efficient, and valid as if done by three or more Commissioners.

It is often expedient to send one of said Commissioners to several districts.

. IV., , sec. 2. In the year 1822, all these barracks were vested in the Ordnance Board by the 3 Geo. IV., cap. 108. After reciting the Acts of the Irish Parliament before referred to, the second section enacted, that all manors, messuages, lands, tenements, and hereditaments in Ireland, which had been at any time theretofore vested in or purchased or taken in the name of His Majesty, or his royal predecessors, or which had been at any time theretofore purchased or taken by or in the name of any person or persons in trust for His Majesty or his royal predecessors, and his and their heirs and successors, for the use or service of the Barrack Department in Ireland, under or by virtue of the said hereinbefore recited Acts, or any of them, and also all messuages, lands, tenements, or hereditaments whatever, which were in any manner then vested in or held by or in trust for or for the use of His Majesty, his heirs and successors, for the service of the Barrack Department in Ireland, either in fee or for any life or lives, or for any term or terms of years, or for any other or less interest; and all erections and buildings erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging (other than and except such messuages, lands, tenements, and hereditaments as may be of copyhold tenure), should be and become and remain and continue vested in the principal officers of His Majesty's Ordnance in Great Britain for the time being, and their successors, according to the respective nature and quality of the said manors, messuages, lands, tenements, and heredita-

Messuages, lands, &c., held for the service of the Barrack Department in Ireland (except copyholds) shall also be vested in the Principal Officers of the Ordnance in trust for the public services.

ments, and the several estates and interests of and in the same hereditaments respectively, in trust for His Majesty, his heirs or successors, for the service of the said Ordnance Department, or for such other public service or services as his said Majesty, his heirs or successors should from time to time, by any Order in Council, be pleased to direct, or as might be from time to time directed by the Lord-Lieutenant or other Chief Governor or Governors of Ireland, by and with the advice of the Privy Council there, by any order or orders to be made for that purpose.

III. As to the Barracks in the United Kingdom.

Powers of recited Act of 1 & 2 Geo. IV. c. 69, to extend to this Act.

3 Geo. I c. 108, se

The fifth section of the 3 Geo. IV., c. 108, enacted, that all the powers, authorities, provisions, regulations, clauses, matters, and things in the Act 1 and 2 Geo. IV., cap. 69,[1] contained, in relation to messuages, lands, tenements, and hereditaments vested thereby in the principal officers of His Majesty's Ordnance, should extend and be construed to extend to all messuages, lands, tenements, and hereditaments, as well in Ireland as in Great Britain, vested in the said principal officers by the Act, as fully and effectually to all intents and purposes, as if all such powers, authorities, provisions, regulations, clauses, matters, and things were respectively, severally, and separately repeated and re-enacted in and made part of that Act.

Two other Acts relating to barracks were subsequently passed, viz., the 5 Geo. IV., c. 26, and the 2 Wm. IV., c. 25, the provisions of which (so far as they were permanent enactments) were incorporated and consolidated in the Defence Act, 1842, which, as elsewhere shown, is still in force.

IV. THE DEFENCE (VESTING) ACT OF 1860.

The passing of the Defence Act, 1860, was preceded by the publication of a Report[2] of certain Commissioners appointed under Royal Sign Manual "to enquire into the state, con-

[1] As to this see p. 52 *ante*.

[2] The rights over the lands here referred to were mostly acquired by the War Department under the Defence Act, 1860. The Royal Commissioners had recommended the absolute purchase of 10,500 acres of land, upon which works were to be erected, and from which all obstructions were to be removed. In lieu thereof Lord Palmerston's Cabinet obtained the powers given by this section, and 6,484 acres of land, lying in 24 different stations of the United Kingdom, have been brought under the Act. These lands are shown by the colour green upon Plans deposited with the Clerks (1) of the Peace for each County, and (2) of the Church for each Parish in which any such lands are situate. Powers somewhat similar had been granted by earlier Acts (*see* 4, Commons' Journal, 123, 22 Geo. III., cap. 80, secs. 10 and 11, and 24 Geo. III., cap. 29, sec. 13), but I am not aware that they have been acted upon. The compensation paid for the exercise of these rights averaged 29*l.* per acre, and the fee-simple value of land purchased under the same Act averaged 119*l.* per acre.

dition, and sufficiency of the fortification for the defence of the United Kingdom," who recommended the construction of certain works of defence in different military stations. With this object they suggested the purchase of 10,500 acres of land, a proposal which was modified by the framers of the Defence Act, 1860, who thereby took powers for purchasing *some* land
:e Act, absolutely for the construction and for keeping *other* land free from all future buildings or erections thereon.

24 Vict., sec. 1. The outline of this Act, so far as it relates to the mere vesting of land and building rights, was as follows:—

Lands to be taken and lands to be kept free fro buildings to be ascertain by declarati of Secretary for War.

On or before the 31st of August 1861, the lands required to be taken *absolutely* for the construction of works, and the lands in the vicinity of the fortifications and works, which were required to be kept *free from buildings* and other obstructions, should be ascertained by a declaration or declarations to be at any time, or from time to time, made and signed by Her Majesty's Principal Secretary of State for the War Department.

sec. 2. Declaration, what to sho

Every such declaration should specify and show, with the aid of a map or plan thereto annexed constructed on a scale of not less than six inches to a mile, the lands to which the same relates, and shall distinguish what lands are required to be taken *absolutely* and what lands are required to be kept *free from buildings* and other obstructions.

sec. 4. Copy of Declaration &c., to be d posited witl Clerks of th Peace, &c.

The said Secretary of State should, within three months after the making of any such declaration, cause copies thereof, and of the map or plan thereto annexed, to be deposited as hereinafter mentioned; (that was to say,)

There should be deposited at the office of the Clerk of the Peace for every county in which any lands to which any such declaration related were situate, a copy of such declaration, and of the map or plan thereto annexed:

There should also be deposited with the Parish Clerk of every parish in England, or in the case of an extra-parochial place, with the Parish Clerk of some parish immediately adjoining thereto, and with the Clerk of the Union within which any parish was included in Ireland, a copy of so much of every such declaration, and of the map or plan thereto annexed, as related to any lands situated in such parish or extra-parochial place.

Provision was then made for notices to be posted and served, and for the determination of the amount of compensation to be paid to the various parties interested. Then followed several sections which, as permanent enactments, are to be found printed elsewhere.[1]

[1] Pages 23, 27, 29, *ante*.

As to the lands to be taken *absolutely* no conveyance was needed, but they were vested with possession in the Secretary of State under these sections:—

Lands taken to be vested in Secretary of State on behalf of Her Majesty.

The lands required to be taken by the said Secretary of State should, from and after payment of the compensation for the same, be vested in the said Secretary of State, on behalf of Her Majesty, discharged of all estates, rights, and interests whatsoever. 23 & 24 c. 112,

Power to Secretary of State to enter immediately.

Provided always, that it should be lawful for the said Secretary of State, at any time after the expiration of fourteen days from the service of such notice as aforesaid in relation to any lands mentioned in any such declaration as aforesaid as required to be taken by him, to enter upon and take possession of and hold such lands, or any of them, and to cause to be executed thereon all such works as such Secretary of State might think fit. *Ibid*, se

As to the lands to be kept *free from buildings* these restraints and powers were imposed:— *Ibid*, se

Restrictions and powers with respect to lands required to be kept free from buildings.

In relation to any lands required to be kept free from buildings and other obstructions, the following restrictions, powers, and consequences shall attach with reference to such lands. and 28 Vict., c. sec. 1.

No building or other structure (other than barns, hovels, or other like structures of wood),—viz., only such barns and hovels as are constructed altogether of wood, and are used for the shelter of cattle or sheep, or for the storage of agricultural produce, or for some other like agricultural purpose, shall be made or erected thereon.

It shall be lawful for the said Secretary of State, at any time, and from time to time, to enter and pull down any future buildings or structures (other than as aforesaid) thereon, and to cut down or grub up all or any of the trees thereon, and to remove or alter all or any of the banks, fences, hedges, and ditches thereon, and to make underground or other drains therein, and generally to level and clear the said lands, and do all such acts for levelling and clearing the same as may be deemed necessary or proper by the said Secretary of State, but in such manner, nevertheless, that evidence of the boundaries of the lands held by different owners may be preserved.

And it shall not be lawful for any person to alter the level of the lands, or do any act which may prejudicially affect any work done on lands under the authority of the said Secretary of State.[1]

[1] See note 2 on paragraph (*v*), p. 43, *ante*. The Act gave 5*l*. per cent. interest from the date of taking possession of land purchased, but no interest on building rights. The latter was sought for in "Suffolk *v.* Lewis" (1 Hem. and Miller, p. 374), and refused by Vice Chancellor Wood. "The Act relates to two subjects—the one is compensation, in lieu of the damages which would be recoverable but for the Act by which the Secretary of State is authorised to commit certain injury on paying compensation in the manner which the statute provides. The other subject is compensation for property taken. The possession of property and the committal of injury are essentially different things. The fact that the statute authorises certain trespasses, does not alter the nature of the act done—it is still a trespass, though an authorised trespass. All that the Act does is, to ascertain the amount of the injury, and direct compensation for it. These considerations displace the argument which is based on the analogy of taking possession of purchased property. The

4 Vict., sec. 35. The powers thus conferred have expired, except with respect to pulling down buildings or structures wrongfully made or erected, or keeping or reinstating such lands in the condition in which the same were left after the execution of auy such work thereon as aforesaid, or maintaining or restoring the level of such lands.[1]

Limitation of time for works und last preced Enactment

Other powers were given as continuous powers, though it is presumed some moral, if not legal, considerations must influence the Secretary of State before acting upon them after a long interval of delay from the date of the Act.

V. VESTING AND OTHER ACTS RELATING TO LANDS SITUATE AT THE SEVERAL WAR DEPARTMENT STATIONS, ALPHABETICALLY ARRANGED.

Stations generally.

The protective clause which is usually inserted in every private Bill for any undertaking affecting War Department property, is as follows:—

Saving rig of Her Majesty's Principal Secretary State for t War Depa ment.

And whereas it is necessary that the lands, hereditaments and works belonging to Her Majesty, or vested in Her Majesty's Principal Secretary of State for the War Department, for the public service, should be preserved intact and free from all intrusion or obstruction: Be it therefore enacted that nothing in this Act contained shall authorise the company to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being; or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent, signified in writing, under

difficulty was obviously felt by the Plaintiff's counsel when they attempted to fix the time of the supposed possession from wh'ch interest was to run. The claim should, on this principle, have been from the time of the notice, or fourteen days afterwards, when the restrictions on building and the right of entry take effect under the Act. But it has not been attempted to carry back the interest beyond the date of the contract; and the explanation offered is, that the intervening injury must be taken to be covered by the amount of compensation agreed upon. That only makes the real distinction between the acquisition of property and the privilege of committing injury more plain."

[1] For the form of notice and Power of Attorney given to the Commanding Royal Engineer to carry out the powers of this section see Nos. 20 and 21 Appendix, p. 236. If the section ever comes under controversy "Wakly *v.* Froggatt," 2 Hurls and Colt, 699, and "Brown *v.* Gugy," 2 M. P. C. C. (N.S.), 341, may perhaps be usefully referred to. As to the construction of the word "building" *see* "Powell *v.* Boraston," 18 C.B., (N.S.) 183.

his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the said company.

The Public Health Act, 1875, has this section therein:—

Saving for works and property of certain authorities, and for navigation and water rights, &c.

"Nothing in this Act shall be construed to authorise any local authority to disturb or interfere with any lands or other property vested in Her Majesty's Principal Secretary of State for the War Department for the time being, without the consent in every case of such Secretary of State, such consent to be expressed in writing." 38 & 39 Vict. c. 55, sec. 327.

Aberdeen.

On 7th August 1862, "The Aberdeen Police and Waterworks Act, 1862," passed, which contains these provisions:—

Provisions not to apply to Her Majesty's Forces.

Nothing in this Act contained shall extend or be construed to extend to any gunpowder imported or used by any of Her Majesty's Military or Naval Forces, or any Volunteer or Yeomanry Corps. 25 & 26 Vict. c. 203, s. 172, (L. & P.)

Officers of Ordnance may furnish Commissioners with maps, or cause surveys to be made.

The Principal Officers of Her Majesty's Ordnance may, if they think fit, on the application of the Commissioners, and at their expense, furnish for the use of the Commissioners one or more copies of any map of the territory within the limits of this Act or any part thereof, which shall have been made under the direction of the said Officers, or may cause a survey to be made of such territory, on a scale of not less than five feet to a mile, by Surveying Officers appointed by them, for such remuneration as shall previously be agreed upon between the said Officers and the Commissioners. *Ibid*, sec. 172.

Ships in Her Majesty's Service exempted.

Nothing in this Act contained shall extend or be construed to extend to or affect any of Her Majesty's ships of war, or any ship, transport, or vessel employed in or upon Her Majesty's service, in the conveyance of any officers or soldiers, or any horses, arms, ammunition, or baggage belonging to them or any of them, or of any Ordnance stores, or to any vessel in the service or employment of the Ordnance, Customs, or Excise, or of Her Majesty's Postmaster-General. *Ibid*, sec. 431

Alderney Harbour.

Power to Her Majesty by Order in Council to transfer works and lands at Alderney to the Admiralty, or to Secretary of State for the War Department.

Under the 37 and 38 Vict., c. 92 (The Alderney Harbour Transfer Act, 1874), Her Majesty from time to time, by Order in Council, may transfer, as from the time fixed by the Order, to the Admiralty, or to the Secretary of State for the War Department, or partly to the Admiralty and partly to the Secretary of State for the War Department, according as Her Majesty may deem expedient, Alderney Harbour, and the breakwaters, piers, jetties, quays, wharves, lighthouses, roads, approaches, works, buildings, and things belonging thereto, and the ground and soil thereof, and the lands and hereditaments which have been acquired for the purposes thereof, or are otherwise situate in the neighbourhood of the said harbour 37 & 38 Vict. c. 92, sec. 1.

and all powers and duties in relation thereto, so far as, at the time of the transfer taking effect, the harbour, property, powers, and duties aforesaid are vested in or imposed on the Board of Trade, or the Admiralty, or the Treasury, or are vested in Her Majesty, and are not under the management of the Commissioners of Woods, but subject to the rights and liabilities affecting the same, and subject to such exceptions, conditions, and restrictions (if any) as to Her Majesty in Council may seem fit.

37 & 38 Vict., c. 92, sec. 2. The harbour and property transferred to the Admiralty or the Secretary of State for the War Department shall be vested in them respectively for all the estate and interest which is vested in Her Majesty, or in the Board of Trade, or the Admiralty, or the Treasury, and shall (subject to the provisions of the order transferring the same) so vest and be held and used,— Tenure by Admiralty and Secretary of State of property transferred.

(1.) If transferred to the Admiralty upon the trusts mentioned in and subject and according to the provisions 27 & 28 Vict., c. 57. of the Admiralty Lands and Works Act, 1864, and the enactments amending that Act, as if the same had been purchased under that Act; and

(2.) If transferred to the Secretary of State for the War Department upon the trusts mentioned in and subject and according to the provisions of the Defence 5 & 6 Vict., c. 94. Act, 1842, and the enactments amending that Act, as if the same had been vested in him under and by virtue of that Act.

Every Order in Council shall be published in the London Gazette, and shall be judicially noticed without being specially pleaded. Publication, &c., of Orders in Council.

Ibid, sec. 3. Every Order in Council shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and if not, then within thirty days after the then next meeting of Parliament. To be laid before Parliament.

Ibid, sec. 4. All such sales, leases, and other dispositions by the Board of Trade, the Admiralty, and the Treasury respectively of lands vested in them or either of them at Alderney, and all such conveyances and assurances of the same, and all such matters and things done by either of them in relation to Alderney Harbour, or any works connected therewith, or the said appurtenances, premises, lands, and hereditaments, as have been made or done before the making of any Order in Council, shall be and the same are hereby declared to be valid and effectual and binding upon all parties. Confirmation of acts of Board of Trade, Admiralty, and Treasury previous to Order.

Aldershot Camp.[1]

1st. As to the roads there.

Prior to the 21st July 1856 certain open or common lands and some enclosed lands in the several parishes of Aldershot, Yateley, Farnborough, and Crondall, in the county of Southampton, and Preamble.

[1] 19 & 20 Vict., cap. 66.

in the parish of Farnham in the county of Surrey, were purchased for a military camp, which, with certain other open or common lands and enclosed lands respectively in the said parishes, were intended to be used for the purposes of a military camp, and for the instruction and training of troops in the science of war and their duties relating thereto. There were certain roads, paths, and rights of way then existing in, through, and across the open or common lands and the enclosed lands which were purchased, and also in, through, across, and over the other open or common lands and enclosed lands respectively intended to be (with the lands already vested in the Principal Secretary) comprised in and to be used for the purposes of the military camp, which roads, paths, and rights of way (except the turnpike road leading from Farnham to Bagshot and the road leading thereto from Aldershot, and also another road leading thereto at a point opposite Heath Villa from the entrance of a lane called Cranmoor Lane), if suffered to continue would very much have interfered with and impeded the useful purposes intended to be effected by the formation of the military camp. It was therefore expedient that all these roads, paths, and rights of way respectively (except the turnpike road and the roads leading thereto respectively aforesaid) should be stopped up.

Accordingly the 19 and 20 Vic., cap. 66, was passed and enacted as follows:—

Rights of Way over certain roads extinguished.

All rights of way, easements, and other rights and privileges over, in, or relating to all and every the roads, paths, and ways (except the turnpike road leading from Farnham to Bagshot, the road leading from the village of Aldershot to the said turnpike road, at a distance of 300 feet or thereabouts south of the third milestone from Farnham to Bagshot, and the road leading to the said turnpike road at a point opposite Heath Villa from the entrance of Cranmoor Lane), through, across, and over all or any of the lands respectively heretofore having been or now being open or common lands in the said parishes of Aldershot and Yately in the said county of Southampton, and in the said parish of Farnham in the said county of Surrey, and enclosed lands in the same several parishes respectively, and also in the said parishes of Farnborough and Crondall in the said county of Southampton, and also respectively now used or to be used for the purposes of the said military camp, shall (subject to the restrictions hereinafter contained with reference to certain of those roads, paths, and ways) respectively be discontinued, and shall cease from the respective times following (that is to say): 19 & 20 c. 66, s

From and after the passing of this Act as to the said rights, easements, and privileges respectively over, in, or relating to the said roads, paths, and ways through, across, or over such of the said open or common lands and enclosed lands respectively as were purchased and are now vested in the said Principal Secretary of State for the War Department, and have been appropriated and are now used for the purposes of the said military camp as aforesaid, or are intended to be.

And from and immediately after the payment by the Principal Secretary of State for the War Department for the time being of the compensation for or the consideration for the purchase of all the open or common lands and enclosed lands respectively which hereafter shall be used or required for the same purposes from time to time as to aforesaid rights, easements, and privileges respectively over, in, or relating to the said roads, paths, and ways through, across, over, or adjoining to the lastly-mentioned lands respectively.

And immediately upon the several rights, easements, and privileges respectively aforesaid ceasing, or at any time afterwards, the Principal Secretary of State for the War Department shall or may stop up or cause to be stopped up all the said several roads, paths, and ways respectively, and thereupon public notice shall be given of the stopping up of the said roads, paths, and ways respectively by advertisement in the "London Gazette," and in some local newspaper published or circulated in either of the said counties of Southampton and Surrey, and also on the church doors of the said several parishes respectively.

Vict., s. 2.

Agreement dated 31st May 1856, to certain roads confirmed.

The agreement bearing date the 31st of May 1856, and made between the persons therein named (and who are therein mentioned to be acting as and for a Committee of the landowners of the parishes of Odiham, Dogmersfield, Winchfield, Crondall, Elvetham, and Heckfield, in the county of Southampton, appointed in reference to the roads thereinafter mentioned at a meeting of such landowners held on the 28th day of September last) of the one part, and Her Majesty's Principal Secretary of State of the other part, whereby, for a consideration therein expressed, the said Principal Secretary agreed with the said Committee to form and make at the expense of Government a good road of 30 feet wide from B to C in the course or direction of the line coloured black between such letters on the map or plan annexed to the agreement, or as near thereto as could be arranged, and another road of the same width from D to B in the course or direction of the line also coloured black between such last-mentioned letters in the said map or plan, and also a short branch from H to G in the course or direction of the line coloured black between such last-mentioned letters in the said map or plan, shall be and the same is hereby confirmed, and the completion of such roads shall be certified by two Justices of the Peace for the said county of Southampton, on any application made to them by or on behalf of the said Principal Secretary for the time being, and which certificate shall be enrolled at the Quarter Sessions for the same county to be holden next after the granting thereof: Provided always, that certain roads mentioned in the agreement, *videlicet*, the road called the Harrington Road from E to F dotted black in the said map or plan, and the roads from D to G, and from G to K, respectively coloured blue on the said map or plan (being some of the roads which are herein authorised to be stopped up) shall not be stopped up until the said roads which are to be

formed and made as aforesaid shall have been completed, and shall be certified as aforesaid.[1]

Copy of the said agreement and plans to be deposited.

A copy of the agreement, and of the plan annexed, verified by the signature of the Principal Secretary shall, within one month next after the passing of the Act, be deposited[2] with the Clerk of the Peace for the county of Southampton, and shall be retained by him, and all the provisions of the Public General Act of the 1 Vict., cap. 83, shall extend and apply thereto. 19 & 20 c. 66, sec

Power of Secretary of State to allow certain Road Surveyors to take gravel for repair of roads, &c.

The road surveyors of the tythings of Crookham and Ewsholt, in the parish of Crondall, shall be allowed by Her Majesty's Principal Secretary of State to dig and take gravel for the repair of so much of the new roads as shall or may be situate in the said tythings from such parts of the adjacent lands of the said Principal Secretary as shall or may be appointed or approved of by or on the part of the said Principal Secretary, and in such quantities and under such regulations in all respects as shall or may be fixed or approved of by or on the part of such Principal Secretary. *Ibid*, sec

Secretary of State to set out ground for certain roads.

The said Principal Secretary shall provide and set out upon the lands of the said Principal Secretary a sufficient occupation or farm road, of the width throughout of 30 feet at the least, for the use of horses, carts, and carriages, commencing at the north end of Sandy Pit Lane in the said parish of Aldershot, and running thence in a northward and eastward direction along the boundary of the lands there now vested in the said Principal Secretary to a point where that boundary meets the said road leading from the village of Aldershot to the said turnpike road, and also a sufficient occupation or farm road for horses, carts, and carriages, commencing from the north end of Yew Tree Hatch Lane, in the said parish of Aldershot, and running thence in a northward direction to join the said road leading from the said village of Aldershot to the said turnpike road, and also a sufficient occupation or farm road for horses, carts, and carriages, commencing from the north end of Lloyd's Lane in the said parish of Aldershot, and running thence in a northward direction to join the said road leading from the said village of Aldershot to the said turnpike road. *Ibid*, sec

Secretary of State to cause certain roads to be provided for horses, &c.

The said Principal Secretary shall, upon the lands of the said Principal Secretary, provide and complete, fit for the passage thereon of horses, carts, and carriages, a road (of the width of 30 feet at least throughout) commencing from and out of Sandy Pit Lane aforesaid in the said parish of Aldershot, at or near to the farm buildings of West End Farm, and running thence in a north-westward and westward direction, and terminating by a junction with the said turnpike road at a point lying 35 chains or thereabouts to the south of the milestone on that turnpike road denoting 3 miles from Farnham, and also a road commencing from and out of the lastly-described intended

[1] These roads were made and certified by the two Justices in April 1861.

[2] This deposit was made on the 7th August 1856.

new road, near a house called Mount Pleasant, and running thence eastward along the aforesaid boundary to the northern end of Sandy Pit Lane aforesaid.

20 Vict., sec. 7. The Inclosure Commissioners for England and Wales shall set out such occupation roads[1] on and adjoining the boundaries of the lands of the said Principal Secretary, as the said Commissioners may think necessary for the convenient use and occupation of the said lands of such owners, lessees, and occupiers. Inclosure Commissioners, upon application of Secretary of State, to set out certain occupation roads.

(2.) As to the Public Health Act, 1848. By "The Public Health Supplemental Act for Aldershot, 1857," it was enacted as follows:—

21 Vict., sec. 1. The Public Health Act, 1848, shall apply to the parish of Aldershot, and the said parish shall be a district for the purposes of the said Act, in the same manner as if the Act had been applied in pursuance of the powers vested in the General Board of Health, except in the matters specially provided for in this Act. Provisions of 11 & 12 Vict., cap. 63, to be applied to Aldershot.

sec. 2. The Local Board of Health for the said parish shall consist of twelve persons, *videlicet*, nine to be elected by the ratepayers of the said parish in the manner provided by the Public Health Act, and three to be nominated from time to time by Her Majesty's Principal Secretary of State for War for the time being. Local Board to consist of 12 persons.

sec. 3. One-third of the elected members of the said Board shall go out of office on the day next after the expiration of a year from the day appointed in this Act for the first election of the said Local Board, and so on annually. One-third to go out of office annually.

sec. 4. The three persons to be nominated by the Secretary of State for War shall hold office during his pleasure. Three persons to be nominated by Secretary of State.

sec. 5. It shall be lawful for Her Majesty's Principal Secretary of State for War from time to time to fill up vacancies arising among persons so nominated. Vacancies to be filled up by Secretary of State.

sec. 6. Every such elected member of the Local Board shall, when elected and while he continues a member of the said Local Board, be resident as in the Public Health Act, 1848, is required, and be possessed of real and personal estate, or both, to the amount of not less than 700*l.*, or shall be so resident and rated to the relief of the poor of the said parish, or of some township or place of which some part is within the said district, upon an annual value of not less than 20*l.* Qualification of elected Members.

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[1] This award was made and published on the 20th January 1857 by Nathan Wetherell, Esq., of Lincoln's Inn, Barrister at Law, an assistant Inclosure Commissioner, duly appointed under the Act. The plan (marked D7), illustrating the award, is in the custody of the Chief Draftsman, War Office.

Athlone.

Company to construct bridges on Ordnance property as Ordnance Officers shall desire.

On the 9th July 1847, "The Midland Great Western Railway of Ireland (Athlone to Galway) Act, 1847," was passed, which enacted that the company therein mentioned should construct, to the satisfaction of the Principal Officers of Her Majesty's Ordnance, proper bridges, two in number, and giving a clear roadway each of not less than 30 feet independent of the footway, which is to be 7 feet, and to be carried over the railway, if required by the Board of Ordnance, or if carried under the railway by their consent, with not less headway than 16 feet, with proper retaining walls to the same, for the purpose of providing access to the property of the said Board of Ordnance which would be severed by the said railway at Athlone and Galway respectively. 10 & 11 c. 176, s (L. &

On the 29th July 1850, "The Midland Great Western Railway of Ireland (Deviations and Amendment) Act, 1850," was passed, which contained these sections relating to War Department Property:—

For the Protection of Ordnance Property at Athlone.

Whereas the said Railway Company are desirous of constructing a new road as an approach to their railway terminus on the Roscommon side of the River Shannon which will interfere with the property now vested in the said Principal Officers of Her Majesty's Ordnance, and not only destroy the barrack drainage, but also the present boundary wall and all buildings attached theroto: be it therefore enacted, that the said railway company shall construct and make the new road to the full and entire satisfaction of the said Principal Officers, and in accordance to the design already agreed to by the said company and the Commanding Royal Engineer in Ireland, so as that the entire length and breadth of the said road shall be plainly seen and commanded from the north-east tower of the Castle Barrack, Athlone, and also that the said company shall reconstruct, complete, and finish the said barrack boundary wall according to the plans and to the entire satisfaction of the said Principal Officers, and shall also construct to the satisfaction of the said Principal Officers, and such Officers or Officer as shall be authorised by them to oversee or to approve and inspect the same, a main conduit or sewer along the said barrack boundary, finishing and connecting the same with that conduit or sewer recently built and made by the Board of Public Works on the south side of the bridge over the River Shannon, and shall also provide for the said sewer a sluice gate and communication into the river for the purpose of flushing the same at will and pleasure. 13 & 14 c. 88, se (L. &

As to Mode of constructing Railway through Ordnance Property at Athlone.

And be it enacted, that in making the said line of railway through the glacis of the Tête de Pont and lands adjcining at Athlone, being property of or vested in the Principal Officers of Her Majesty's Ordnance, the said railway company shall construct and complete and finish the excavations and works connected with their line where it passes through the Ordnance property to the satisfaction of the Master-General and Board of Ordnance, and also construct and complete in like manner such *Ibid*, s

other works as may be deemed necessary and requisite by the said Master-General and Board of Ordnance, and that the said railway company shall not erect or permit to be erected any buildings or other obstructions within the same extent without the consent in writing of the Master-General and Board of Ordnance.

Ayr.

On the 21st July 1879, "The Ayr Harbour Amendment Act, 1879" (42 and 43 Vict., c. 140) received the Royal Assent, and enacts as follows:—

Vict., c.4. ·) Subject to the provisions of this Act, the trustees may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the works hereinafter specified, and all proper approaches and other works and conveniences in connection therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited book of reference (except as hereinafter provided) as may be required for and in connection with those works and for the other purposes of the harbour. The works hereinbefore referred to and authorized by this Act are— Power to Trustees to make slip dock and other works.

(1.) A slip dock, extending from the southern bank of the river Ayr, at a point about 50 yards northward from the lifeboat house at the harbour, to a point about 90 yards northwestward from Cromwell Cottage, with a drawbridge or swingbridge across the same near the lifeboat house, and ways, rails, an engine-house, hydraulic or other machinery, and appurtenances;

(2.) A road of access and wharf along and adjoining the north quay of the harbour and the quay on the eastern side of the entrance to the said wet dock, commencing at or near the junction of York Street with North Harbour Street, and terminating at or near the entrance gates of the said wet dock; and

(3.) A drawbridge or swingbridge across the entrance to the said wet dock at or near the dock gates thereof:

Provided always, that the trustees shall not, without the previous consent in writing of Her Majesty's Principal Secretary of State for the War Department for the time being, enter upon, take, or use any part of the lands numbered on the deposited plans and book of reference 9,[1] in the parish of Ayr, until they shall have provided for the public service, upon a site to be reclaimed by the trustees about 40 yards seaward from the present site, or upon such other convenient site as may be agreed upon between the said Secretary of State, the trustees, and the provost, magistrates, and council of the royal burgh of

[1] Battery, guns, flagstaff, powder magazine, and shot house.

Ayr, a new battery, enclosed by a fence or wall, together with a powder magazine and shothouse, equal in dimensions, construction, and convenience to those now existing on the said lands, and to be held and used by and on behalf of the said Secretary of State upon the same conditions as he now holds the said existing buildings.

Brixham (*see Devonport and Plymouth*).

Brixham.

*34 Geo. III., c. 76.
37 Geo. III., c. 66.
38 Geo. III., c. 34.

Burntisland Low Water Pier.

The "Edinburgh, Perth, and Dundee Railway (Consolidation) Act, 1851," contains an exemption, by the 146th Section, in favour (*inter alia*) of the War Department.

Exemption of certain vessels in the service of Her Majesty, &c.

"Nothing in this Act contained shall extend to charge with rates or duties, or to regulate or subject to any control, any vessel belonging to or employed in the service of Her Majesty, or any of the officers or persons employed in the service of the Ordnance, or their baggage, or any Naval, Victualling, or Ordnance Stores, or other stores or goods for the service of or being the property of Her Majesty, or any troops landed upon or delivered or disembarked from any of the said piers, wharfs, quays, harbours, locks, cuts, docks, and other works, or their baggage; but all such vessels, officers, or persons as aforesaid shall have the free use of the said piers, wharfs, quays, harbours, locks, cuts, docks, and other works, without any charge or rate being made for using the same. Provided always, that if any person claim and take the benefit of any such exemption as aforesaid, without being entitled thereto, he shall, for every such offence, be liable to a penalty not exceeding Ten Pounds." 14 & 15 c. 55 (L.

Chatham and adjacent Parishes.

7 Anne, c. 26.
8 Anne, c. 21.
31 Geo. II., c. 39.
*32 Geo. II., c. 30.
33 Geo. II., c. 11.

The 32 Geo. II., c. 30, renders the lands taken by the Crown liable to the payment of land tax, and all parish rates in proportion with other lands and premises in the parish, and makes the storekeepers the occupiers for rating purposes.[1]

[1] This section is contained in the other Vesting Acts marked with an asterisk.

*20 Geo. III., c. 49.
21 Geo. III., c. 10.
*22 Geo. III., c. 80.
*24 Geo. III., c. 29 (Sess. 2).
*44 Geo. III., c. 79.
46 Geo. III., c. 130.
48 Geo. III., c. 101.

II., This last Act authorised the Crown to stop up, take away, and extinguish the use of so much of the lane or road therein described, as leads from the boundary stone which divides the parishes of Chatham and Gillingham situate near to Slykates Hill along the front of the farm houses into the turnpike road leading from Canterbury to Brompton; and that no person or persons whosoever shall at any time or times hereafter use, claim, or demand the said lane or road upon any account whatsoever, either with any horse, beast, cattle, or carriage, or as a way, path, or passage for passengers on foot or otherwise howsoever; any right, claim, usage, or custom to the contrary in anywise notwithstanding. His Majesty may stop up the lane or road herein described.

The second section vested the land or soil of the said roadway in the Crown.

The East Kent Railway Act, 1853 (16 & 17 Vict., c. 132, L. & P.) for making a railway from Strood to Canterbury, contains the following sections relating to War Department lands:—

Vict., 24.) The tunnel proposed to be constructed to the eastward of Fort Pitt shall be extended for a distance of 260 yards to the westward of the west mouth of the tunnel instead of the open cutting under the horn work of Fort Pitt as shown on the plans and sections, and that the said tunnel shall be extended for a distance of 44 yards to the eastward of the east mouth of the said tunnel, instead of the open cutting at present shown on the said plans and sections, and that such tunnel shall be made and constructed under the directions of the Commanding Royal Engineer for the time being of the district, and to the satisfaction of the Master-General and Principal Officers of Her Majesty's Ordnance, at the costs and charges of the said company. As to the construction of the Tunnel at Fort Pitt.

26. And whereas in consequence of the construction of the said intended railway, certain works or alterations may be required to place the fortifications at Chatham in their present state of defensive power: Be it therefore enacted, that the said company, when called upon by the said Master-General, shall lay out and expend any sum or sums of money not exceeding in the whole the sum of 1,200*l.* in such works or alterations under the directions of the said Commanding Royal Engineer: Provided always that the said company shall not be liable to pay or expend any portion of the said sum of 1,200*l.*, unless they are called upon to do so within two years after the completion of that portion of the said railway which is intended to pass through or near to the said fortifications. As to fortifications at Chatham.

No buildings to be erected on the Ordnance property without consent.

That nothing contained in this Act shall extend to authorise the company to construct any erection or building above the surface of any ground belonging to Her Majesty, and under the charge of the said Board of Ordnance, without the consent of the Principal Officers of Her Majesty's Ordnance or their successors, signified in writing under the hand of the Secretary of the said Principal Officers for the time being. 16 & 17 Vict., c. 132, sec. 27. (L. & P.)

Clifford's Fort.

On 17th June 1852, "The Tyne Improvement Act, 1852," (15 Vict., c. 110) was passed, which enacts:—

For protection of Clifford's Fort.

And whereas it is indispensably necessary that the forts, lands, and other public property belonging to Her Majesty, and under the charge of the Board of Ordnance, should be preserved from injury or obstruction arising from or in consequence of any of the works intended to be made by virtue of this Act: Be it therefore enacted, that nothing in this Act contained shall authorise the said Commissioners to interfere with or in any ways prejudice the defence of Clifford's Fort or Spanish Fort, or to enter upon, or possess, or occupy any buildings or land belonging to Her Majesty, for the purposes of the said works, or otherwise, without the consent of the Principal Officers of Her Majesty's Ordnance under their hands first obtained for that purpose. 15 Vict., c. 110, sec. 49. (L. & P.)

Cork.

21 Geo. II., c. 9, sec. 4 (Irish Parliament).

On 16th July 1846, an Act (9 and 10 Vict., c. 196, L. & P.) was passed to extend the Great Southern and Western Railway to Cork, and the 14 sec. enacts as follows:—

Preserving supply of water to the Barracks in the City of Cork.

And whereas the construction of the said intended railway may interfere with or divert the supply of water from the springs by which the barracks in the said city of Cork are now supplied with water; be it therefore enacted, that if by reason of the construction of works of the said intended railway there shall be any failure or diminution in the supply of water as aforesaid to the said barracks, then and in such case the said railway company shall and will, at their own cost and charges, sink such wells or use such other proper and efficient means to preserve and continue the necessary supply of water to the said barracks as shall be required by the Master-General and Principal Officers of Her Majesty's Ordnance, and perform and complete the same under the Superintendence of the Commanding Royal Engineer for the time being of the Cork district. 9 & 10 Vict., c. 196, sec. 14. (L. & P.)

On the 3rd July 1879, "The Great Southern and Western Railway (Additional Powers) Act, 1879" (42 & 43 Vict., c. 94, L. & P.) received the Royal Assent, and enacts:—

42 & 43 Vict., 94, sec. 6. (L. & P.)

The Company may remove the viaduct and drawbridge which carries the Queenstown branch over that portion of the estuary of the River Lee known as the Belvelly Channel, and may substitute therefor embankments and an iron girder bridge of three openings, the central opening of which shall have a span of 70 feet measured from centre to centre of the piers, and a height of not less than 51·44 feet from the under side of the girders to the datum line as delineated on the amended plans, and the openings on either side a span of 60 feet measured from centre to centre of the piers, and each pier shall (unless otherwise agreed between the Company and the Commissioners) consist of three cylinders, and the diameter of each cylinder shall not exceed five feet.

Alteration of Queenstown branch at the Belvelly channel.

Ibid, sec. 9.

The Company shall not stop up or interfere with the use of the road numbered on the deposited plans three, in the townland of Marino and parish of Clonmel, until they have acquired the site for and provided a new road equal to and in substitution for that road, and over which new or substituted road Her Majesty's Secretary of State for War shall be entitled to exercise the same rights of way as he at present has, exercises, and enjoys over the road which the Company are by this Act authorised to stop up and acquire.

Secretary of State for War to have right of way over substituted road.

The Curragh of Kildare.[1]

This Estate, belonging to the Crown, is regulated by—

I. The Act of 1868.
II. The Award of 1869.
III. The Act of 1870.

I. The Act of 1868:—

31 & 32 Vict., 60, secs. 3 & 4.

Of this property a map was made and deposited in the year 1868 with the Clerk of the Peace of the county of Kildare, on which the Curragh was delineated, and for the better management thereof the 31 and 32 Vict., cap. 60, was passed, the principal provisions of which statute are as under:—

Subject to the provisions of this Act, the care, management, and preservation of the Curragh shall be vested in the Ranger of the Curragh, who shall be appointed by the Lord-Lieutenant, and hold office during pleasure, and have such powers and perform such duties in relation to the management and preservation of the Curragh as the Lord-Lieutenant thinks fit to

Management of Curragh by Ranger.

Office of Ranger.

[1] 31 and 32 Vict., cap. 60.

direct, but there shall not be any salary, fees, or other pecuniary remuneration paid to or received by the Ranger.

Office of Deputy Ranger.

The Lord-Lieutenant shall appoint a fit person to be Deputy Ranger, who shall hold office by the same tenure as a person serving in an established capacity in the permanent civil service of the State, but shall be removable by the Lord-Lieutenant; and the Deputy Ranger shall have such powers and perform such duties as the Lord-Lieutenant, with the advice of the Ranger, from time to time, thinks fit to direct. The Ranger shall also appoint two bailiffs to assist the Deputy Ranger, and such bailiffs may be removed at any time by the Ranger. 31 & 3 c. 60, s

Division of Curragh into three parts.

The Curragh shall, for the purposes of the user thereof, be deemed to be divided into three parts, as follows:— *Ibid*, s

1. A part lying to the eastward, coloured brown on the deposited map, occupied by or adjoining to the encampment, which part is referred to as the site of the camp:
2. A part lying to the south and south-east of the site of the camp, coloured blue on the deposited map, used as a ground for rifle practice, which part is referred to as the rifle ground:
3. The residue of the Curragh, coloured green on the deposited map, which part is referred to as the green lands.

Control of Site of Camp by War Department.

The Secretary of State for War shall have the exclusive use and control of the site of the camp while the same shall be occupied by a camp, and during such time all rights of common of pasture, rights of way, or other rights (except the rights of the Crown) in, over, or affecting the site of the camp or any part thereof shall be and the same are hereby suspended until the site of the camp shall be freed and discharged from such rights of common and other rights: provided that nothing herein shall authorise the Secretary of State to erect on the outer boundary thereof any wall of brick or stone or any other erection for the purpose of enclosing the site of the camp, or restrict the public right of way on, over, and along the road crossing the site of the camp marked on the deposited map and thereon distinguished by the letters X, Y, save that the officer in command of the camp may in any case of riot or disturbance of the peace, existing or apprehended, and on the request or with the consent of a justice in writing under his hand, temporarily close that road or any part thereof against public traffic. *Ibid*, se

Use of Rifle ground.

The Secretary of State for War shall have the use and control of the rifle ground for purposes of rifle and musketry practice, and for instruction in field works, with power to erect and maintain butts and other necessary or proper works for such practice, and to use such rifle ground for the purposes of drill, exercise, and recreation of Her Majesty's troops, and for the purposes of temporary encampment thereon, when required in the judgment of the Secretary of State. *Ibid*, s

Use of green lands.

The Secretary of State for War shall continue to have the *Ibid*, s

use of the green lands, subject to the provisions hereinafter contained, as to a portion thereof, for reviews, drills, and other military purposes, and for the exercise and recreation of Her Majesty's troops, and also, with the previous assent in writing of the Lord-Lieutenant from time to time, the use of a portion thereof for the purposes of temporary encampment thereon in cases of temporary emergency.

2 Vict., sec. 11. The Secretary of State for War may at any time and from time to time, by certificate under his hand with map annexed deposited with the Clerk of the Peace for the county of Kildare, take in and add to the site of the camp any portion of the green lands, not exceeding in the whole 100 acres, and the land comprised in any such certificate shall, from and after the deposit thereof, be deemed to be part of the site of the camp within the meaning and for the purposes of this Act; and every such certificate shall be in duplicate, and one part of it shall be deposited in the Record and Writ Office, Dublin, within one month after the deposit of the other part with the Clerk of the Peace. Power for War Department to add to site of camp.

sec. 12. The Secretary of State for War may from time to time cause to be made such sewers and drains as are necessary for the effectual sewering and draining of the site of the camp, and may carry such sewers and drains in, under, through, and across any part of the Curragh, doing as little damage as may be. Power for War Department to drain camp.

sec. 13. The Secretary of State for War may bring and may defend any action, suit, prosecution, or proceeding relative to the site of the camp or to the rifle ground in respect of any trespass or encroachment committed thereon or damage done thereto, or in respect of any other matter connected therewith; and in every such action, suit, prosecution, or proceeding the Secretary of State for War may be so styled, without more; and any such action, suit, prosecution, or proceeding shall not be affected by any change in the person holding the office of Secretary of State for War; and in any such action, suit, prosecution, or proceeding the Secretary of State for War shall be liable and entitled to pay or receive costs according to the ordinary rules observed in actions, suits, prosecutions or proceedings between subject and subject; and the same right of appeal is hereby given to the Secretary of State for War to which a party proceeded against is now entitled, and upon the same terms and conditions, save as to the necessity of the Secretary of State for War being required to enter into a recognizance. Actions and suits by and against War Department.

sec. 14. Whenever the Secretary of State for War shall no longer require the use and occupation of the camp and the use and control of the rifle ground, and shall give notice in writing to the Under Secretary of the Lord-Lieutenant of his intention to withdraw from the use and occupation thereof, then one month after such notice the site of the camp shall become and be subject to the power, authority, and control of the ranger of the Curragh, acting under the provisions of this Act. When site of camp and use of rifle ground no longer required for military purposes, same to become subject to control of Ranger.

sec. 15. The Secretary of State for War may from time to time Power for

War Department to dig Gravel.

cause gravel, sand, or other substances to be dug and raised on any part of the Curragh, for the purposes of the maintenance and repair of the roads on the Curragh under his control, and for other purposes connected with the encampment of Her Majesty's troops on the Curragh; provided that no such power shall be exercised in the portion described as the green lands without the consent of the ranger for the time being.

Diversion of Road from Ballysax to Athgarvan.

The Secretary of State for War may, if he thinks fit, make a new road from the point where the proposed new road, howns on the deposited map and coloured red, diverges from the road thereon shown and coloured brown, and described as the present road from Ballysax to Athgarvan, to the point where the proposed new road joins that present road, as nearly as conveniently may be in the line of the proposed new road as shown on the deposited map, and a plan and section of the said road shall be deposited with the surveyor for the county of Kildare previous to the construction of same; and on the completion of the new road hereby authorised the Secretary of State may permanently stop up against traffic and lay into the Curragh the site of so much of the said present road as lies between the point where the proposed new road diverges from that present road and the point where the proposed new road joins that present road; and on the completion of the proposed new road (whereof a certificate under the hands of two justices shall be conclusive evidence) the same shall be deemed to be to all intents a public road in substitution for that portion of the said present road which is hereby authorised to be stopped up. 31 & 32 c. 60, sec

Use of Curragh for racing purposes.

Her Majesty, with the advice of the Commissioners of Her Majesty's Treasury, may grant and permit the society known as the Irish Turf Club, or, failing the same, any other like society or person, for the purpose of horse racing and training of horses only, to use that portion of the green lands bounded on the south by the Limerick Road, and on the west by a line drawn from the said Limerick Road through the police barrack, and terminating at the Rathbride Post, and on the north and east by so much of the outer boundary of the Curragh as lies between the entrance of the said Limerick road on the Curragh and the Rathbride Post aforesaid, for such time, at such rent, and subject to such conditions as Her Majesty may think proper; and also, with such advice as aforesaid, by warrant, under seal or otherwise, to grant and demise to the said society or other person for any term not exceeding 99 years a part of the said portion of the green lands (not exceeding 10 acres) for the purpose of buildings in connection with and necessary for such races, such grant and demise to be subject to such rent and on such terms and conditions as may by Her Majesty, Her heirs and successors, be thought proper; and when any such grant or permission shall have been given, it shall not be lawful for the Secretary of State for War or the commanding officer of the camp or any other officer to use for review, drill, or exercise of Her Majesty's troops any part of that portion of the said green lands hereinbefore described without the leave in writing of the Lord-Lieutenant. *Ibid*, sec.

Vict., c. 18. Subject to the provisions of this Act, all rights of common of pasture, rights of way, and other rights existing in, over, or affecting the Curragh at the passing of this Act shall continue and be as if this Act had not been passed. Continuance of rights of common.

. 62. Subject to the provisions of this Act, the Curragh may be stocked and depastured in common by the persons to whom rights of common of pasture in, over, or affecting the same, or any part thereof, are allowed by the award, according to their respective rights so awarded, and subject and according to such regulations as the Ranger, with the approval of the Lord Lieutenant, from time to time thinks fit to make. Regulation of rights of pasture over Curragh.

. 63. The Lord Lieutenant, by and with the advice and consent of Her Majesty's Privy Council in Ireland, may from time to time (subject to the provisions of this Act) make byelaws for all or any of the following purposes, namely:— Power to make bye-laws.

For preventing unauthorized persons from turning out or knowingly permitting sheep, pigs, or other animals to graze or feed or remain on the Curragh;

For preventing unauthorized persons from taking from the Curragh any gravel, sand, stone, earth, turf, sods, or other substance, or digging for the same on or in or otherwise disturbing the surface or soil of the Curragh;

For prohibiting persons from placing heaps of manure or rubbish on any part of the Curragh;

For prohibiting or restricting unauthorized persons from passing over the Curragh, or any specified part thereof, with vehicles;

For prohibiting persons from removing from the Curragh the dung of sheep or other animals;

For prohibiting persons from injuring, defacing, or removing notices put up on the Curragh, or the posts, railings, chains, or fences placed thereon; and

Generally for preventing encroachments or trespasses on, or injuries to, or nuisances on the Curragh, or any unauthorized user thereof, or any interference with or obstruction to the authorized user thereof.

. 64. Any such byelaws may impose reasonable penalties for offences against the same, not exceeding five pounds for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence forty shillings for every day during which the offence continues; but all byelaws shall be so framed as to allow in every case part only of the maximum penalty being ordered to be paid. Penalties in byelaws.

c. 65. Penalties under any such byelaws shall be recovered by summary proceedings before a Justice or Justices. Recovery of penalties.

II. The Award of 1869.

The preamble of the Curragh Act contained these recitals:—

And whereas part of the Curragh is occupied by an encampment of some of Her Majesty's Forces;

And whereas, with a view to the better management of the Curragh, and the more beneficial user thereof, and the ascertaining and settling the rights of common of pasture (if any) and other rights (if any) which legally exist, either by grant, charter, or user, over the Curragh, and the ascertaining of the claims for compensation to those (if any) whose rights may be interfered with by the provisions of this Act, and for preserving the use of the Curragh for the purpose of horse racing and the training of race horses, it is expedient that such provisions be made as are in this Act expressed.

Commissioners to ascertain rights of Common, &c.

Commissioners were therefore appointed to ascertain and decide the following things:— 31 & 32 c. 60, sec

What (if any) rights of common of pasture, rights of way, or other rights (except the rights of the Crown and public rights of way) exist in, over, or affecting the Curragh, or any part thereof, either by grant, charter, or prescription.

To what persons, and for what terms, estates, or interests, the rights aforesaid respectively belong.

What (if any) are the lands in respect of which the rights aforesaid respectively are exercisable.

What (if any) compensation should be given to any party whose rights are or may be injuriously affected by this Act.

Upon the 30th June 1869 these Commissioners made their award, by which they found (*inter alia*):—

(1.) In the first schedule, the names of the several persons on whose behalf claims had been made before them under the said Act, the townlands (county of Kildare) in which the lands were respectively situate, and in respect of which the claims had been made, the substance of each claim lodged and brought before them, the compensation claimed (if any), and the terms, estates, or interests, and number of acres, Irish plantation measure, in respect of which such claims were made, with their allowance or disallowance, wholly or in part, of such claims respectively.

(2.) That no rights of persons legally claiming under the Act were substantially altered, varied, or injuriously affected by the Act, and, as a matter of fact on the evidence adduced before them, that no right to compensation had been established by any of the claimants, either in respect of the site of the camp, or the rifle ground, or otherwise.

(3.) That the right of use of pasturage for any animals other than sheep was unsustained, and that the pasturage on the Curragh is adapted for sheep only (such pasturage being supplementary to the lands in respect of which same was by their award allowed); and, for the benefit of those entitled to the enjoyment of pasturage on the Curragh, they awarded accordingly that such pasturage shall be confined to sheep.

(4.) That the public rights of way existing in, over, or

affecting the Curragh were those mentioned in the second schedule, and taken as part of their award, and particularly shown in the map.

(5.) That there were no other rights in or over the Curragh save those by their award allowed.

The first schedule stated the names of the claimants, the right claimed, the estate in respect of which the right was claimed, and the number of sheep each claimant was allowed to pasture upon the Curragh. The second schedule contained an enumeration of the public roads existing over the Curragh, thus:—

No. 1. Road known as the Limerick Road.
No. 2. Road from Ballymanny by the Stand House and Anglesea post, by Ducie's stables to the Shrod Road.
No. 3. Road from Ballymanny by the Curragh Petty Sessions Court to Athgarvan.
No. 4. Road from Donnelly's Hollow to a point near the present post office at Ballysax.
No. 5. Road from the Kilcullen road at Ballysax, past Ballysax Glebe to Kildare Road at French Furze.
No. 6. Road from Ballyshannon Road at Brownstown up to Road No. 5.
No. 7. Road from the corner of Whitehall to No. 5.
No. 8. Road from Blackmiller's Hill to Rathbride.
No. 9. Road from Blackmiller's Hill to edge of Curragh at Rossmore Lodge.
No. 10. Road from Keegan's House at Blackmiller's Hill to join Road No. 8.
No. 11. Road leading from Rathangan Road across the railway bridge to Road No. 2, near the Anglesea post.
No. 12. Road from Pollardstown bridge to Road No. 2.
No. 13. Road from the Newbridge Road, past the National School, to Road No. 3.
No. 14. Road from the road leading to Ballysax Church to Road No. 5.
No. 15. Public right of way on, over, and along the road crossing the site of the camp marked on the deposited map, and thereon distinguished by the letters "X Y," subject to the provisions in the 8th section of the Curragh of Kildare Act, 1868.

III. The Act of 1870.

By the "Curragh of Kildare Act, 1870,"[1] the award was confirmed and made effectual to all intents and purposes, and of like force and effect as if the provisions of the same had been thereby expressly enacted.

By subsequent sections it was enacted:—

Sheep only to be depastured.

33 & 34 Vict., c. 74, sec. 3.

No animal other than sheep shall at any time depasture on the Curragh, or be turned out to depasture thereon.

[1] 33 & 34 Vict., c. 74.

Sheep to be marked.

No sheep shall depasture on the Curragh, or be turned out to depasture thereon, unless they be respectively marked in a distinctive manner, and according to such regulations as the ranger may from time to time direct. 33 & 34 c. 74, s

Ranger to have power of occupier in relation to trespasses.

The ranger of the Curragh shall, for the purpose of preventing the trespass of animals upon the Curragh, have and may exercise all the same rights as if he were the occupier of the same, and shall, for the purposes of section 20 of "The Summary Jurisdiction (Ireland) Act, 1851," be deemed to be the occupier of the Curragh. *Ibid*, se

Devonport and adjacent Parishes.

31 Geo. II., c. 39.
32 Geo. II., c. 30.
32 Geo. II., c. 11.

The 31 Geo. II., c. 39, contains these special provisions:—

Lord of the Manor of Stoke Damerell allowed to dig lime stones, and other stones, proper for building, or paving the streets of the town, within a certain distance of the works,

and to build lime kilns; and to enjoy a foot-way and passage from the Ferry to Dock Town, &c.

Provided also, and be it further enacted, that it shall and may be lawful to and for the Lord and Lords of the Manor of Stoke Damerell for the time being, and their tenants, servants, and agents, from time to time, and at all times hereafter, within such distance from the high-water mark, as shall be allotted by the said commissioners, or any five or more of them, so as no prejudice be done thereby to His Majesty's soil, lines, or fortifications; to dig and get out of the cliffs and sea banks, lying between Mutton Cove and the said Joseph Hooper's Yard aforesaid, and between the said yard and the house called the Passage House, near the ferry at Stonehouse aforesaid, lime stones, and other stones, to be employed in and for the building and repairing houses, and paving streets, in the manor and parish of Stoke Damerell aforesaid: and to make and build kilns in or under the said cliffs, for the burning and manufacturing the said lime, so as no stones be dug, nor any kiln be made or erected within the distance of 150 yards on either side of the said yard; and also to have, use, and enjoy, the foot-way and passage now used from Stonehouse Ferry aforesaid, to Dock Town aforesaid, and the way or passage now used, or some other convenient way or passage to be laid out and appointed by the principal officers of His Majesty's Ordnance, or whom they shall appoint, leading from Mutton Cove aforesaid, to Dock Town aforesaid; and also some convenient way or passage to be laid out and appointed as aforesaid, from the lime kiln now erected between Hooper's Yard aforesaid and the Passage House aforesaid, to the Dock Town aforesaid, for conveying and carrying such stones and lime, and all materials proper for getting, burning, and manufacturing the same, with horses, cattle, carts, and carriages, at all convenient garrison hours and times, from the said cliffs and sea banks to the Dock Town aforesaid, so as the laying out, making, using, or occupying, the fortifications or other works intended to be made and erected on the said premises, for the use of His Majesty, his heirs, and successors, pursuant to this Act, shall not thereby be in any wise prejudiced, obstructed, or hindered. 31 Geo c. 39, s.

30. II., sec. 12. Provided also, and be it further enacted, that it shall and may be lawful to and for the said Lord or Lords of the said Manor of Stoke Damerell for the time being, to have, use, and enjoy, a proper and convenient landing place, in and on a certain place called Mutton Cove, with sufficient ground not exceeding one acre in the whole, to build and erect proper quays and wharfs, for landing, laying, bestowing, and keeping, all such goods, wares, and merchandises, as shall be brought thereto, and to load and unload the same, in, upon, or from, such wharfs, quays, and landing places, to, from, or on board of, any ship, boat, or other vessel, so as there shall be no other buildings, storehouses, or sheds, erected on the said acre of land, than what are now erected there; and also the way, road, and passage, or some other convenient way, road, or passage, to be laid out and appointed as aforesaid, from Mutton Cove aforesaid to Dock Town aforesaid, for all sorts of horses, cattle, and carriages, to and from such wharfs and quays, to the Dock Town in the said parish of Stoke Damerell aforesaid.

And also to enjoy a proper landing place on Mutton Cove, and ground to erect quays and wharfs thereon, and a carriage-way to the same.

sec. 13. Provided also, and be it further enacted, that it shall and may be lawful to and for the Lord or Lords of the Manor of Stoke Damerell for the time being, to have, use, and enjoy, the several landing places now used for boats passing over the creek or river, to and from Dock Town aforesaid, and to and from Mutton Cove aforesaid, and the house at Stonehouse Passage, called the Passage House, with the appurtenances, together with the said roads, ways, and passages, hereinbefore mentioned, to and from the said places respectively.

With the several landing places, &c., now used over the creek and river.

sec. 14. Provided also, and it is hereby further enacted and declared, that no ferry or ferry boat shall be made, set up, or used, for the passage over the said creek, to and from Dock Town aforesaid, or to and from Mutton Cove, or any of the lands hereby vested in the said trustees, other than for carrying and transporting soldiers, sailors, and marines, and ordnance, naval, and victualling stores, or for any other use or service of His Majesty, his heirs, and successors, without the license and consent of the Lord or Lords of the Manor of Stoke Damerell aforesaid for the time being.

No ferry boat to be made use of for passage over the creek; except in the King's service, without license of the Lord of the Manor.

*20 Geo. III., c. 38.
21 Geo. III., c. 61.
22 Geo. III., c. 12.
*24 Geo. III., c. 29 (Sess. 2).

The 22 Geo. III., c. 12, s. 15, enacts as follows:—

22 Geo. III., sec. 15. And whereas in and by the said decrees of the said Commissioners, with regard to the messuages, lands and hereditaments, in the county of Cornwall, the said Commissioners certified, that in the aforesaid verdict of the said jurors, immediately after the valuation of such messuages, lands, and hereditaments, in that county (all which are in the parish of Antony), there is an article in the words following; (that is to say), And we declare, that in settling the sums above mentioned as the value of the aforesaid particulars of land so to be employed for public use, as aforesaid, we have considered, that as by such lands becoming

Recital of an Article in the Verdict of the Jurors in the County of Cornwall.

the property of His Majesty, the same will, in future, be exempt from the land tax, and all parochial taxes, the respective owners thereof, in the respective valuations above mentioned, being allowed a full compensation for the said taxes for the time to come, they, the said owners respectively, and their said respective estates, shall, in future, be charged with, and be liable to answer and pay all such taxes which might or could be charged and assessed on the said respective pieces or parcels of ground above described, as if the same had remained the property of the above-named parties respectively, and so as not only His Majesty, but also all the other owners and occupiers of lands within the said parish of Antony, may for ever be freed from and indemnified from and against the said taxes: And whereas in and by the decree of the said Commissioners, with regard to the said messuages, lands, and hereditaments, in the said county of Devon, the said Commissioners certified, that in the verdict of the said jurors, after the articles finding or declaring the value of the several parcels of land, in the parish of Maker, to be taken for the use of the public, there was a clause as follows; (that is to say), And we declare, that in settling the aforesaid sums as the values of the aforesaid particulars of lands of the said Viscount Mount Edgecumbe and Valletort, and of the Vicar of the said Vicarage of Maker, we have considered, that as by such lands becoming the property of His Majesty, the same will, in future, be exempt from the land tax, and all parochial taxes, the respective owners thereof having, in the said respective valuations, been allowed a full compensation for the said taxes for the time to come, they, the said owners respectively, and their said respective estates, shall, in future, be charged with, and be liable to answer and pay all such taxes as might or could be charged or assessed on the said respective pieces or parcels of ground, as if the same had remained the property of the said parties respectively, and so as not only His Majesty, but also all the other owners and occupiers of lands within the said parish of Maker, may for ever be freed from and indemnified against the said taxes: Be it therefore enacted by the authority aforesaid, that, from and after such time as possession of the lands, valued as aforesaid, and to which such several and respective declarations, as aforesaid, of the said jurors respectively relate, shall be taken for the use of His Majesty, all the other messuages, lands, and hereditaments, in the same respective parish, at the respective times of taking the said inquisitions belonging to the respective owners of the particulars so valued, and to which such respective clauses relate, or the persons who shall, for the time being, be owners or occupiers of such other messuages, lands, and hereditaments, shall, from time to time, and at all times for ever, be subject and liable to the payment for or towards the land tax, and all parochial rates and assessments whatsoever, after the same rate as they would respectively have been subject or liable to pay if such particulars of lands belonging to such respective owners, and so valued, and proposed to be taken for the use of the public, had remained or continued the estate or property of

Recital of a Clause in the Verdict of the Jurors in the County of Devon.

Taking the said valued lands for the use of His Majesty, shall not affect other lands in the same parish with regard to taxes.

such owners respectively; to the end that, by reason or means of the particulars of lands so valued having been taken for the use of the public, and thereby being exempt for the payment of land tax, or any parish taxes or assessments, no additional burthen in respect of the land tax, or any parish tax, or assessments whatsoever, shall or may, at any time or times hereafter, be laid on any messuages, lands, or hereditaments, situate in the same parish, and belonging to any other person or persons, or on any present or future owners or owner, occupier or occupiers, of any messuages or messuage, lands, or hereditaments, in the same parish, belonging to any other person or persons.

{ 22 Geo. III., c. 80.
{ 24 Geo. III., c. 29 (Sess. 2).

By the 30 Geo. III., cap. 61, power was given to Lord Mount Edgcombe and Reginald Pole Carew to establish a common ferry from Stoke Damerel across the river Tamar to Torpoint with the right to levy tolls as in the Act stated.

30 Geo. III., c. 61, sec. 7

Exception in favour of the Office of Ordnance.

The 7th section provided that nothing therein contained should extend, or be construed to extend, to prevent, hinder, or interrupt the free passage of the officers of His Majesty's ordnance; or of any persons employed by or in the actual service of the same officers at all times in any boats or vessels belonging to or appropriated to the use of the same officers, or the free conveyance of any cattle, carriages, stores, goods, or merchandize, for the use of the Office of Ordnance, or of His Majesty's Royal Army and Navy, or otherwise for His Majesty's service, from and to any part of the said several parishes of Stoke Damarel, and Anthony Saint Jacob, otherwise Anthony in the East, other than and except the landing places of the said ferry.

Dover.

{ *46 Geo. III., c. 105.
{ 49 Geo. III., c. 39.

1. As to the Harbour:—

9 Geo. IV., c. 31, sec. 21. (L. & P.)

Not to extend to vessels in His Majesty's service, &c.

In 1828 an Act (9 Geo. IV., c. 31, L. & P.) was passed for maintaining and improving Dover Harbour, but it enacted that nothing in this Act contained shall extend or be construed to extend to any of His Majesty's ships of war, or any ship, transport, or vessel employed in or upon His Majesty's service in the conveyance of any officers or soldiers, or any horses, arms, ammunition, or baggage to them or any of them belonging, or of any Ordnance stores, or to any vessel in the service or employ of the Ordnance, Customs, or Excise, or of His Majesty's Postmaster-General.

2. As to the Railway Tunnel * under the Western Heights:—

"The East Kent Railway (Extension to Dover) Act, 1855,"

* The tunnel under Archcliff Fort is made pursuant to deed of 24th January 1844, and no building is to be erected within 50 yards of the Fort.

which received the Royal Assent 30th July 1855, enacts as follows:—

Company not to construct certain Works without consent of Secretary of State for War.

Nothing in this Act contained shall extend to authorise the company to construct any erection, building, shaft, tunnel, or other work within a circle whose radius shall be one mile from the flagstaff of that portion of the fortifications on the Western Heights at Dover known by the name of Drop Redoubt without the approval and sanction of Her Majesty's Principal Secretary of State for the War Department for the time being, signified in writing under the hand of his Secretary for the time being; and when any such erection, building, shaft, tunnel, or other work shall have been constructed, no alteration shall be made therein without the like approval and sanction: provided always, that the construction of any such erection, building, shaft, tunnel, or other work as aforesaid shall be subject to the supervision of the said Principal Secretary of State for the time being as aforesaid, and the Commanding Royal Engineer at Dover for the time being shall have the power to stop the execution of any of the railway works within the said circle if the said company shall not in all respects perform the same to the satisfaction of the said Principal Secretary of State. 18 & 19 c. 187, (L. &

Company not to interfere with or take certain Works without consent of Secretary of State for War.

Nothing in this Act contained shall extend to authorise the company to interfere with or take, without the written consent of the said Principal Secretary of State for the time being signified as aforesaid, any building or other property belonging to Her Majesty or under the charge of the said Principal Secretary of State for the time being, and any such building or other property as may be damaged or destroyed by reason of the execution of the said railway works shall be replaced by and at the expense of the said company to the satisfaction of the said Principal Secretary of State, and no erection, building, shaft, tunnel, or other work on or under any ground belonging to Her Majesty, and under the charge of the said Principal Secretary of State, whether the same be intended to be permanent or otherwise, shall be constructed without the written consent and approval of the said Principal Secretary of State signified as aforesaid. *Ibid*, se

If Tunnel abandoned after being commenced, Company to fill up and make same secure.

In the event of the construction of the proposed tunnel under the said Western Heights, being part of the works hereby authorised, having been commenced by the said company, and the further construction thereof afterwards abandoned before completion, the said company shall at their own expense fill up such portion of the said tunnel as may have then been executed, or otherwise render the same secure, in such manner as the said Principal Secretary of State may require. *Ibid*, se

During war, &c., Secretary of State may take possession of certain part of Company's line.

The said Principal Secretary of State for the time being, as well as the Commander-in-Chief for the time being, shall at any time during war, rebellion, or other disturbance have the power to assume military occupation and control of the whole of the line, stations, and works of the said company which shall be within the before-mentioned circle, or so much or such part or parts thereof as may be deemed necessary, without the payment *Ibid*, se

to the said railway company of any compensation in respect of such occupation and control.

3. As to the sea defences on the East Cliffe:—

41 Vict., & 42 Vict.) By "The Dover Corporation (Sea Defences) Act, 1877" the Corporation were authorised to execute, *inter alia*, these works:— Description of authorised works.

(1.) A sea wall and promenade (hereinafter referred to as work No. (1), commencing in the parish of East Cliffe at the termination of the present sea wall and promenade known as the East Cliffe Revetment, and terminating in the parish of Guston, at the eastern side of the jetty or groyne known as Castle Jetty, at a point 84 yards south of No. 1, Athol Terrace.

(2.) A work for strengthening and improving the jetty or groyne known as Castle Jetty (hereinafter referred to as work No. (2), commencing in the parish of Guston, at the east side of the said jetty or groyne, at the point of its junction with the Athol Terrace Revetment, and terminating in the sea at the southern extremity of such jetty or groyne.

Together with all necessary and proper groynes, aprons, walls, supports, and defences.

Sec. 8. The Act provides also that the existing East Cliffe Revetment and Athol Terrace Revetment, and (when constructed) the continuation of the former authorised by the Act and the Castle Jetty, both within and without the borough shall vest in and be under the control of, and the roadway and paths thereof respectively shall be repaired by, the corporation as if the same were respectively a public highway within the borough. Maintenance of surface of revetments.

Sec. 15. All sums borrowed under the Act for the purposes of the works No. (1) and No. (2) (after deducting any moneys contributed by the War Department towards the expenses of construction of works as hereinafter provided) shall, as between the corporation and the owners of the lands and houses which are situate within the area described in Schedule A., be deemed to be borrowed on behalf of those owners. Sums borrowed by Corporation to be deemed to be borrowed on behalf of owners.

Any sum so borrowed should be divided by the corporation among the owners on whose behalf it is deemed to be borrowed, in proportion to the rateable value of their respective property situate as aforesaid, according to the assessment in force for the purposes of the poor-rate at the time such sum is borrowed, and the principal amount so apportioned to each owner, together with all interest thereon, shall be private improvement expenses recoverable from him by the corporation in manner provided by the Act.

Sec. 17. In lieu of being rated, the War Department may contribute to the expenses incurred by the corporation in the construction and maintenance of works No. (1) and No. (2), and in the maintenance of the existing East Cliffe Revetment and Castle Jetty, and the amount of such contributions may be ascertained or calculated according to the extent which the line of sea frontage of Crown lands within the area described in Schedule A. The War Department may contribute to the expenses.

shall bear to the whole line of sea frontage of the lands within that area.

For defraying the expenses of maintenance of works.

The corporation may maintain the works by this Act authorised, and also the existing revetments and Castle Jetty, and all expenses from time to time incurred by them in relation thereto shall be defrayed as follows; (that is to say,) 40 & 41 c. 113, s (L. &

(1.) In relation to works No. (1) and No. (2) and the East Cliffe Revetment and Castle Jetty, or any of them (after deducting any sum contributed by the War Department in respect of such maintenance), as to three-fourths of such expenses by the owners of lands and houses situate within the area described in Schedule A. to this Act, and as to the remaining one-fourth by the corporation out of the general district rate.

All sums payable under this section by owners shall from time to time be apportioned by the corporation amongst the several owners chargeable therewith, in proportion to the rateable value of the respective property situate within the areas aforesaid, according to the assessments for the time being in force for the purposes of the poor-rate, and such apportioned sums, or any part thereof, may be recovered by the corporation from the owner or the occupier for the time being of the premises in respect of which the apportionment is made in like manner as expenses directed to be recovered in a summary manner may be recovered under the Public Health Act, 1875, and may be deducted from the rent of such premises in the same proportions as are allowed in the case of private improvement rates under that Act.

If the estimated cost of maintenance of the works referred to in this section shall amount to such a sum as ought, in the opinion of the corporation, to be spread over a term of years, the corporation may, with the sanction of the Local Government Board, borrow on the security of their district fund and general district rates, or on the security of the instalments recoverable by them under this section, or partly in one way and partly in the other, such moneys as may be necessary for that purpose, and the corporation may recover the amount so borrowed (less the proportion payable by them and any sum contributed by the War Department), together with interest from the owners within the respective areas (according to the works in respect of which the moneys are borrowed), in the proportions and shares in which they are liable to contribute to the expense of maintenance of such works; and the provisions of section 16 of this Act shall apply to moneys to be recovered from owners under this section.

The area situate in the parishes of Saint James the Apostle, East Cliffe, and Guston lying to the south of the Cliffe, and between it and the sea, bounded on the west by an imaginary line drawn along and in continuation of the eastern side of the Stone Groyne to the Cliffe, and on the east by the borough boundary. Schedul

Dublin.

On the 16th May 1846 an Act (9 & 10 Vict., c. 213,) was passed to extend the Dublin Railway to Bray, which enacts these sections:—

9 Vict., c. sec. 23. & P.) Railway not to be constructed at certain points except with consent of Board of Ordnance.

And be it enacted, that nothing in this Act contained shall authorise or empower the said company to bring the said line of railway, or the line of deviation thereof, between the town of Blackrock and the city of Dublin, within the distance of fifty yards of any of the towers, batteries, or works of and belonging to Her Majesty, and under the control or management of the Board of Ordnance, or to authorise or empower the said company to carry the said line of railway on a higher level than the base of the said several towers, batteries, or works, without the consent of the Principal Officers of Her Majesty's Ordnance, in writing under their hands, first had and obtained for that purpose; and in case such consent shall be given the said Company shall and will, at their own costs and charges, construct such new batteries, towers, or works, in such place or places, and in such manner, and at such time, as shall be directed and approved of by the Master-General and Principal Officers of Her Majesty's Ordnance; and the said new works shall be constructed and completed under the direction and superintendence and to the satisfaction of the Commanding Royal Engineer of the Dublin District for the time being.

sec. 45. For protection of property belonging to the Board of Ordnance.

And be it enacted, that it shall be lawful for the said Dublin and Kingstown Railway Company to carry the line of railway by this Act authorised to be made through or by, or for the purposes thereof to take down and remove, the battery belonging to Her Majesty, distinguished as No. 8, in the books of the office of Her Majesty's Ordnance in Dublin, and which battery is situate in the parish of Killiney in the county of Dublin, upon the lands marked 12 and 13 in the Book of Reference deposited as aforesaid, upon condition that the company do and shall at their expense rebuild the said battery between the railway authorised to be made and the sea, under the directions and to satisfaction of the Master-General and Principal Officers of Her Majesty's Ordnance, and under the direction and superintendence of the Commading Royal Engineer of the Dublin district for the time being, and upon such spot, and according to such plan, and in such manner in all respects, as shall be approved of by the said Master-General and Principal Officers of Her Majesty's Ordnance, and the work commenced at such time or times as they shall direct and require.

On the 21st July 1879, "The Dublin Port and Docks Act, 1879" (42 and 43 Vict., c. 170, L. & P.) received the Royal Assent, and contains these sections:—

43 Vict. 0, sec. 5. & P.) As to providing site for a battery.

If the Board, under the powers of the Act of 1869 or of this Act, shall extend the North Wall Quay to or eastward of the western boundary of the Pigeon House Basin, they shall forthwith provide and set apart a site for a battery at the easternmost extremity of such extension to the satisfaction of and to be

vested in Her Majesty's Secretary of State for the War Department, together with a necessary and convenient approach thereto, and shall forthwith after so providing vest the said site in the said Secretary of State in trust for the Crown; provided that if within three years from the vesting of such site the erection of a battery be not commenced and subsequently completed in due course the said site shall revert to the Board, and all rights of the said Secretary of State under this section shall cease.

Saving certain rights of Secretary of State for War.

Nothing in this Act or in the Act of 1869 shall be construed to abridge or in any manner interfere with the estate and interest of Her Majesty's Principal Secretary of State for the War Department, as the owner of the Pigeon House tenements and premises, conveyed by the Corporation, for preserving and improving the port of Dublin, to the late Board of Ordnance by indenture of 6th December 1813, nor to prejudice, diminish, or alter any rights, powers, or authorities which, save for such Acts, the said Principal Secretary would, as the owner of the Pigeon House tenements and premises, have been entitled to exercise or enjoy. 42 & 43 Vict., c. 170, sec. 21. (L. & P.)

Eastbourne Circular Redoubt.

The "Eastbourne Improvement Act, 1879" (42 & 43 Vict., c. 97) contains this section:—

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

Whereas a circular redoubt has been erected at Eastbourne for the protection of the coast, and it is necessary that this redoubt, belonging to Her Majesty, and vested in Her Majesty's Principal Secretary of State for the War Department for the public service, should be preserved intact and free from all intrusion or obstruction: Be it therefore enacted, that nothing in this Act contained shall authorize the Board to erect any building or structure of any kind upon War Department property, or that shall mask or interfere with the fire of the guns from the said redoubt towards the sea, or to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being, without his previous consent signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorized to give, subject to such special or other conditions as he shall see fit to impose on the Board. 42 & 43 Vict. c. 97, sec. 62. (L. & P.)

Felixstowe.

On the 21st July 1879, "The Felixstowe Railway and Dock Act, 1879" (42 and 43 Vict., c. 177, L. & P.) received the Royal Assent, and contains these sections:—

1 Vict., sec. 17. P.)

In carrying the railway by this Act authorized across the water pipe, belonging to or vested in Her Majesty's Principal Secretary of State for the War Department, laid for the purpose of conveying water to Landguard Fort, the company shall place such pipe in a properly constructed culvert or shoot under the embankments of the said railway and of the railway made under the Act of 1875, such works being executed to the satisfaction of the said Principal Secretary of State, and they shall permanently maintain such culvert or shoot with a headway of three feet and a width of not less than two feet, and shall permit the said Principal Secretary of State, and any person or persons appointed by him in that behalf from time to time and at all times, to have access to the said culvert or shoot for examining, repairing, and renewing the said pipe.

Culvert to construct for carryi water pip belonging to the W Office und railway.

c. 18.

In carrying the railway authorized by this Act across Walton Creek, and in order to provide for the more effectual draining and carrying off of the water which may from time to time accumulate on the east side of the company's existing railway, the company shall make and hereafter maintain in good order a circular culvert, not less than three or more than five feet clear diameter as the Board of Trade may decide, under the said existing railway, in lieu of the present 18-inch pipe, at or near the proposed junction of the said railway with the railway authorized under this Act. In order to provide for the carrying off of water from the culvert hereinbefore provided for under the company's existing railway the company shall make a new and sufficient outfall by means of a cut into the existing drain on the northern side of the bank known as Marsh Bank, and if the company shall hereafter construct over the said new outfall or cut any embankment or other work so as to prevent or interfere with the carrying off of the water from the aforesaid culvert the company shall forthwith build a circular culvert through or under such embankment or other work, of not less than three or more than five feet clear diameter as the Board of Trade may decide, so as to allow uninterrupted and efficient drainage through the same.

In crossin Walton C Company construct culvert an other wor

The new culvert under the existing railway and the outfall in connection therewith as hereinbefore provided for shall be completed to the satisfaction of the Board of Trade within six months from commencing the construction of any of the works authorized by this Act, and such culvert and outfall shall be for ever after maintained by the company to the satisfaction of the said Board.

It contains also the usual saving of War Department rights. (*See* sect. 172).

Galway.

On 9th July 1847, "The Midland Great Western Railway of Ireland (Athlone to Galway Extension) Act, 1847 (10 & 11 Vict., c. 176), was passed, to make a railway from Athlone to Galway, and contains these sections:—

Company to construct bridges on Ordnance property as Ordnance Officers shall desire.

And be it enacted, that the said company shall construct, to the satisfaction of the Principal Officers of Her Majesty's Ordnance, proper bridges, two in number, and giving a clear roadway each of not less than 30 feet, independent of the footway, which is to be 7 feet, and to be carried over the railway, if required by the Board of Ordnance, or if carried under the railway by their consent, with not less headway than 16 feet, with proper retaining walls to the same, for the purpose of providing access to the property of the said Board of Ordnance which will be severed by the said railway at Athlone and Galway respectively. 10 & 1 c. 176, (I.

Company not to deviate to the south through Ordnance property.

And be it enacted, that it shall not be lawful for the company, in the construction of the works by this Act authorised through the property of Her Majesty's Board of Ordnance, to deviate from the centre line of railway to the south end of said centre without the consent of the Principal Officers of Her Majesty's Ordnance. *Ibid.* s

A footpath to be constructed from the barrac s into the town of Galway, for the free passage of troops, &c.

Whereas it is expedient that a footpath should be provided for the use of Her Majesty's Ordnance from the intended barracks near Lough Attalia along the line of the said railway across the lake and into the town of Galway on the south side of said railway; be it enacted, that the said company shall construct, to the satisfaction of the said Principal O cers of Her Majesty's Ordnance, a footpath not less than seven feet wide in the clear from the said barracks, along the line of and fenced off from the said railway across the lake and into the town of Galway, for the free passage of Her Majesty's troops, and all persons connected with or belonging to Her Majesty's Ordnance, and all persons who shall have occasion to go to or from said barrack from or to the town of Galway: Provided always, that nothing herein contained shall require the said company to construct the said footpath through or into the station at the terminus at Galway, but only to and with an outlet on to the street called College Road in the said town of Galway, where there is to be a proper way or gate of entrance erected by said company. *Ibid.* s

Bridge to be erected between Ordnance property and Point Rinmore.

And be it enacted, that the said company shall, at their own cost and charges, make and construct, to the satisfaction of the said Principal Officers of Her Majesty's Ordnance, such access, and at such place of communication, by means of a bridge not exceeding 30 feet width and 30 feet span, to the peninsular lying between the property of Her Majesty's Ordnance and Point Rinmore, near the town of Galway, as shall be required by the said Principal Officers of Her Majesty's Ordnance. *Ibid.* s

On 15th August 1853, "The Galway Town Improvement Act, 1853," (16 and 17 Vict., c. 200) was passed, which enacts:—

Property of the Ordnance not to be taken compulsorily,

Provided always, that a compulsory power of purchasing and taking land given by this Act shall not be taken to authorise the Commissioners to take or interfere with the property of the Crown vested in the Principal Officers of Her 16 & c. 200 (I.

Majesty's Ordnance, unless with the full consent of the Honourable Board of Ordnance, or until after such property shall cease to be used or required as barracks, or for the public service; but in case such property shall at any time cease to be used as barracks or other public "service or services, as Her Majesty, her heirs or successors, shall from time to time by any Order in Council be pleased to direct, as provided by the Ordnance Act, 5 and 6 Vict., c. 94," then the Commissioners under this Act shall have power and are to be at liberty to exercise the said compulsory powers of purchase in regard to such portions of the said Ordnance property as shall not be required for barrack purposes, or for other public service or services as aforesaid: provided also, that if the time given by this Act for compulsory purchase shall have then expired, then as to such portions of the said Ordnance property as shall be required by the said Commissioners for the purposes of this Act after the same shall cease to be required for the Ordnance or other public service or services as aforesaid, the said compulsory powers of purchase shall be deemed in force, to enable the said Commissioners under this Act to purchase such of said Ordnance premises as shall be required for purposes of this Act; and provided the said Commissioners shall within three months from the time it shall be notified to them by the Ordnance Department that their premises are no longer required for barrack or other public service or services, give notice to the Officers of Ordnance that they the said Commissioners will act upon and exercise such compulsory powers for purchase of the portions of the said premises set out and described in and by a plan to be annexed to such notice, or otherwise such compulsory powers shall cease altogether, so far as the property of the Ordnance Department is concerned.

unless same shall cease to be used for public service.

ec. 89. That nothing in this Act contained shall apply to or affect any person serving in Her Majesty's Forces, or in any Corps of Militia or Yeomanry actually embodied, or on the Staff of the Militia, or any officer or man of the Constabulary Force, or Metropolitan Police, or Coast Guard, or Revenue Police, in respect of any ammunition entrusted to or used by any of them in their respective capacities as aforesaid.

This Act not to extend to Her Majesty's Forces, &c.

Glasgow.

On 3rd August 1846, an Act (9 & 10 Vict., c. 314) was passed, to form the Caledonian Railway to Glasgow, which enacts this section:—

) Vict., , sec. 9. & P.) And whereas it is indispensably necessary that the barracks[1] and other public property belonging to Her Majesty, under the charge of the Board of Ordnance, should be preserved from

Branch not to be carried within 100 yards of Barrack,

[1] These barracks were sold in 1851.

without consent of Board of Ordnance.

injury or obstruction in consequence of the said railway; be it therefore enacted, that nothing in this Act contained shall authorise or empower the said Company to carry the said line of railway or the line of deviation within the distance of 100 yards from the nearest point of the barrack wall of Her Majesty's Cavalry Barrack situate in Eglinton Street in the City of Glasgow, without the consent of the Principal Officers of Her Majesty's Ordnance, in writing under their hands, first had and obtained for that purpose.

On 2nd July 1847, "The Caledonian Railway (Garnkerk Station) Act, 1847," (10 & 11 Vict., c. 82, L. & P.) passed, which contains the ordinary protective clause with reference to the barracks at Broomhill.

Gosport (see Portsmouth).

Gravesend (see Tilbury).

{ 20 Geo. III., c. 38.
{ 21 Geo. III., c. 10.

No works on Milton lands to obstruct the defensive works of Gravesend.

By the 50 Geo. III., c. 76 (L. & P.), certain parcels of land situate in the parish of Milton next Gravesend, were conveyed to "The Thames and Medway Canal Company," and the Act provided, that no house or houses, or other erection or building whatsoever, shall at any time be erected or built on the said pieces or parcels of land, or any part thereof respectively, which shall in any manner interfere with or obstruct the works erected, or which shall be erected for the defence of the town of Gravesend aforesaid and places adjacent. 50 Geo. c. 76, se (L. &

Public baths and landing place only to be erected.

In 1842, an Act (5 Vict., Sess. 2, c. 59, L. & P.), was passed for erecting a pier at the Royal Terrace Gardens by Commissioners acting under statutory powers. Land was conveyed to these Commissioners under conditions that the said land should for ever after be used as and for public gardens, public baths, esplanade, and public landing place, and not otherwise, and that no other houses, warehouses, coach-houses, stables, or other buildings whatsoever, should at any time thereafter be erected or built thereon, or on any part thereof, without the consent of the principal officers of the Ordnance for the time being. It was then enacted, that it shall not be lawful for the Commissioners, on any portion of the said land, or on any other land which may be purchased by them under the authority of this Act, to erect or build, or permit or suffer to be erected or built, any house, warehouse, coach-house, stable, or other building whatsoever, other than and except such erections as shall be necessary for converting and using the same land into and for the purposes of public gardens, public baths, esplanade, and public landing place. 5 Vict. (Sess. 2) c. 59, se (L. &

These other sections are contained in the Act:—

Officers of Ordnance, &c., exempted from payment of rates.

And be it enacted, that it shall be lawful for the Principal Officers of Her Majesty's Ordnance for the time being, and for all persons in their employ, aud by them authorised and directed, and also for all officers, soldiers, and others in Her *Ibid.*, s

Majesty's service, and for all contractors for the supply of stores and other things for the public service, in the performance of any contract to embark, disembark, and land on and from the pier into and from any vessel, and to enter into, go, pass, and repass into, upon, over, and across the road over the said Royal Terrace Gardens leading from the public road, at the end of Harmer-street to the present pier, or to the said intended pier and also upon and over the said present or the said intended pier respectively, and any other pier to be constructed by virtue of this Act, without paying or being obliged or required to pay any rates imposed by virtue of this Act, or otherwise; and also with the like freedom and exemption from the payment or demand of, or liability to pay any such rates to land, embark, and disembark, as aforesaid; and to conduct and carry all horses, carriages, wagons, carts, and other vehicles, stores, baggage, cannon, arms, ammunition, and other things for the service of Her Majesty, her heirs and successors, at, upon, from, and over the said pier and road of the said Royal Terrace Gardens, between the said public road from the end of Harmer-street and the termination of the said pier in the River Thames.

Saving right of the Ordnance

Vict. Sess. 2), 59, sec. 147.

And be it enacted, that nothing in this Act contained shall prejudice or in any manner affect the rights, estates, or property of Her Majesty, or of the Principal Officers of Her Majesty's Ordnance, or shall extend or apply to any vessel belonging to or in the service or employ of Her Majesty, or of any contractor for the public service, anything contained in this Act to the contrary notwithstanding.

9 Vict., c. 26, sec. 83. (L. & P.)

The "Gravesend Improvement Act, 1856" (19 Vict., c. 26, sec. 83; L. & P.), enacts:—

The lands and estates of Her Majesty exempt from operation of this Act, except as to liability to rates and assessments.

This Act shall not in any manner affect or extend to or give to the Commissioners, or any person acting under their order or authority, any jurisdiction over the lands belonging to Her Majesty in the town, and now under the charge or control of one of Her Majesty's Principal Secretaries of State, while such lands shall belong to Her Majesty, her heirs or successors, without the consent in writing of one of Her Majesty's Principal Secretaries of State, it being hereby declared that all such last-mentioned lands shall continue, while the same shall belong to her Majesty, her heirs or successors, subject as heretofore to rates and assessments to be made by virtue of this Act, but for all other purposes shall be wholly excluded from the powers and jurisdiction of the Commissioners while the same shall belong to Her Majesty, her heirs or successors, anything in this Act contained to the contrary notwithstanding.

By "The Gravesend Terrace Pier (Sale) Act, 1875" (passed 14th June), authority was given for the sale of the pier, subject to this condition:—

Purchaser to be subject to provisions of lease granted by Ordnance Department.

8 Vict. c. 47, sc. 5. (L. & P.)

Every purchaser under this Act shall be subject nevertheless as to the premises conveyed by certain indentures of lease and release bearing date the 29th and 30th days of April 1835, made between His most Excellent Majesty King William the Fourth of the first part, the Principal Officers of His Majesty's

Ordnance of the second part, and Robert Pierce Cruden, John Smith, Robert Coles Arnold, and John Matthews, therein described, of the third part, to all the covenants, conditions and agreements therein contained and to be observed, fulfilled, and kept by the purchaser or other the owners for the time being of the said premises: Provided always, that Her Majesty's Secretary of State for War, his successors and assigns, may from time to time at his or their discretion, upon the application of the owners for the time being of the said premises, alter, modify, or release the said covenants, conditions, and agreements, or any of them.

Harwich.

{ 7 Anne, c. 26.
{ 8 Anne, c. 21.

Company to provide a new site for battery, and a road there.

On 20th August 1853, "The Harwich Dock and Pier Act, 1853," 16 and 17 Vict., c. 206,) was passed, which enacts:—

And whereas the construction of the docks, harbour, and pier will interfere with the defensible use of a battery at Harwich belonging to Her Majesty, and called the Bathside Battery, for three guns; and it will be necessary, if such docks and other works are constructed, that the said company shall, at their own cost and charges, furnish and provide a site for a new battery, of such extent and in such situation as shall be approved of by Her Majesty's Principal Secretary of State for the War Department, in exchange for the land forming the site of the said Bathside Battery, and also provide a sufficient road for the conveyance of heavy ordnance from the town of Harwich, such road to be provided, made, and completed for use at the cost and charges of the said company, and to the satisfaction of the said Principal Secretary for the time being: be it therefore enacted, that within 12 months after the passing of this Act the said company shall, in exchange for the land forming the site of the said existing Bathside Battery, at their own expense, find and provide a site for a new battery of such extent and in such place as shall be approved of by Her Majesty's Principal Secretary of the War Department, and at the like cost and charges of the said company convey the fee simple of such site to the said Principal Secretary, to be held by him for the use of Her said Majesty and her successors for ever, and also that the said company shall and will, at their own expense, provide a sufficient road for the conveyance of heavy ordnance from the town of Harwich to the said battery so to be provided as aforesaid, such road to be made and completed fit for use at the sole expense of the said company, and to be finished within three months after the situation for the site for such battery shall have been approved of by the said Principal Secretary for the time being. 16 & c. 206 (L.

By the Harwich Harbour Act, 1863, it is provided that all works executed by the Conservancy Board under that Act shall be executed subject to the approval and in conformity with any directions of the Board of Trade and Her Majesty's Principal Secretary of State for the War Department. 26 & 2 c. 71. (L.

Inverness.

. III., ec. 44. t P.) By the 48 Geo. III., c. 41 (L. & P.), for regulating the police of the said burgh, it is enacted that the Commanding Officer of any of His Majesty's troops quartered in the said burgh, may at all times direct such a quantity of gunpowder as he may think necessary for the use of the said troops, or other military purposes, to be kept in such place or places within the said burgh as shall be appointed by the said Magistrates and Council, who, upon his application, shall be obliged to appoint a proper place for that purpose. Regulations in regard to gunpowder.

ec. 45. That it shall and may be lawful for the said Magistrates and Council, from time to time to make, and afterwards to alter, such rules, orders, and regulations as they shall think proper, for the depositing such gunpowder in such magazine as aforesaid, and for removing such gunpowder therefrom. Magistrates empowered to make rules, orders, and regulations relative to the depositing and removal of gunpowder.

Ireland.

On the 16th July 1846, "The Waterford, Wexford, Wicklow, and Dublin Railway Act, 1846," received the Royal Assent with this section therein:—

Vict., sec. 38. t P.) That nothing in this Act contained shall authorise or empower the company to bring the line of railway, or the line of deviation thereof, within the distance of 50 yards of any of the towers, batteries, or works of and belonging to Her Majesty, and under the control or management of the Board of Ordnance, or to authorise or empower the said company to carry the said line of railway on a higher level than the base of the said several towers, batteries, or works, without the consent of the Principal Officers of Her Majesty's Ordnance, in writing under their hands, first had and obtained for that purpose; and in case such consent shall be given, the said company shall and will, at their own costs and charges, construct such new batteries, towers, or works, in such place or places, and in such manner, and at such time as shall be directed and approved of by the Master-General and Principal Officers ,of Her Majesty's Ordnance; and the said new works shall be constructed and completed under the direction and superintendence and to the satisfaction of the Commanding Royal Engineer of the Dublin District for the time being. Nothing to authorize Company to interfere with property of Board of Ordnance without consent.

. 397, t P.) On the 26th August 1846, "The Cork and Waterford Railway Act, 1846," (9 and 10 Vict., c. 397,) was passed, which enacts, that nothing in this Act contained shall authorise or empower the said company to carry the said line of railway, or line of deviation thereof, within this distance of 50 yards of any of the tower batteries or works of or belonging to Her Majesty, and under the control or management of the Board of Ordnance, without the consent of the Principal Officers of Her Majesty's Ordnance in writing under their hands first had and obtained for that purpose. Railway, &c., not to pass within 50 yards of towers, &c., without consent of the Ordnance Department.

Knightsbridge Road.

On the 15th August 1879, "The Knightsbridge and other Crown Lands Act, 1879" (42 and 43 Vict., c. 219) received the Royal Assent, and enacts as follows:—

Commissioners of Woods empowered to sell the "Knightsbridge land" to the Metropolitan Board.

It shall be lawful for the Commissioners of Woods, and if requested by the Secretary for War and the Commissioners of Works, they are hereby required to sell and convey for and on behalf of Her Majesty, her heirs and successors, to the Metropolitan Board, all the estate, right, and interest of Her Majesty in the "Knightsbridge land" (coloured yellow on the deposited plan) for the sum of 5,000*l.*, subject to the reservations and conditions hereinafter specified, and the said land shall upon such sale and conveyance vest in the Metropolitan Board for the purposes and subject to the reservations and conditions specified in this Act, free from any right to the occupation thereof by the Secretary for War. 42 & 43 c. 219, s (L. & I

Reservation of right to construct vaults under pavement.

The conveyance to the Metropoliton Board of the said land shall be subject to the right of Her Majesty and of the Secretary for War to construct, hold, use, and maintain vaults under the footway to be formed by the Metropolitan Board as hereinafter mentioned either with or without openings between such vaults and the surface, such vaults to be constructed to the reasonable satisfaction of the Metropolitan Board. *Ibid*, sec.

Appropriation of land by Metropolitan Board.

When, under the provisions of this Act, the said land shall have become vested in the Metropolitan Board, the following provisions shall take effect: *Ibid*, sec.

1. The Metropolitan Board shall appropriate such parts of the said land as may be necessary for such purpose to the formation of a public footpath next the new frontage line of the barracks of such width and at such level as may be approved by the Secretary for War, and shall form, make, and sufficiently pave the same, but subject to the rights of construction of vaults reserved to Her Majesty and the Secretary for War as aforesaid;
2. The Metropolitan Board shall appropriate the remainder of the said land to the widening of the Knightsbridge Road, and they shall level, make, and metal the same in such manner that the same may be laid into and form part of the Knightsbridge Road;
3. The Metropolitan Board shall relay and repave any part of the said road, street, or footpath which they may disturb or alter in the execution of any of the works aforesaid;

and when the said land shall have been laid out, levelled, made, paved, and metalled in accordance with the provisions of this Act the same shall form part of the Knightsbridge Road, and shall thereupon be a public highway, of the same nature, subject to the same control, maintenance, and jurisdiction as the Knightsbridge Road, to which it is hereby added, and the same shall be maintained accordingly.

42 & 43 Vict., c. 219, sec. 7. The present site of the said barracks, including any vaults and openings to be constructed as aforesaid, shall remain part of Hyde Park, but so long as the same shall be used or occupied for barrack purposes for the troops of Her Majesty, her heirs or successors, shall be under the charge of the Secretary for War for the time being, and, subject to this provision, the same premises shall be deemed to belong to that part of the said park which by the said Act of the 14th and 15th years of Her Majesty, chapter 42, is placed under the management of the Commissioners of Works.

Present site of barracks to remain part of Hyde Park, but to be under charge of Secretary for War so long as used for barrack purposes.

Liverpool and Mersey Powder Stores.

Under the 14 and 15 Vict., cap. 67, the Secretary of State (as the successor to the Master-General of the Ordnance) has certain duties imposed upon him in regard to these stores.

14 & 15 Vict., c. 67, sec. 3. The Lords Commissioners of the Admiralty may, with the approval of Her Majesty's Principal Secretary of State for the War Department, and of the Commissioners for the Conservancy of the river Mersey, appoint suitable places in such river for the mooring of vessels to be used for the reception and storage of gunpowder by the lessees of the magazines or storehouses referred to in the Act, notice of which appointment shall be inserted in the "London Gazette"; and the said Commissioners may from time to time, upon the application of any other persons desirous of mooring vessels in the said river for the like purposes, and with such approval as aforesaid, appoint any other suitable places in the said river for the mooring of such vessels; and, subject to the regulations and directions to be made and given under the Act, vessels suitable for the reception and storage of gunpowder may be moored, provided, and kept in the places for the time being appointed as aforesaid, and may be used as magazines for gunpowder.

Lord High Admiral, with approval of the Master-General of the Ordnance and Conservators of the River Mersey, may appoint places for mooring vessels for storing gunpowder in the said river.

Ibid, sec. 4. That an officer shall be appointed by the said Principal Secretary to superintend the said stores; and that the said officer so appointed shall have authority to enforce such regulations as shall be deemed necessary by the War Department in the management of such stores, and shall be required to enforce the same; and that such officer shall be required to report from time to time to the War Department all cases of neglect of such regulations on the part of persons engaged in the gunpowder trade in the river Mersey, or in the management of such stores.

Ordnance to appoint officer to superintend stores, with authority to enforce Regulations.

Ibid, sec. 6. It shall be lawful for the Principal Secretary from time to time to make and give all such regulations and directions in relation to the construction of the vessels to be moored at the places appointed under this Act, and the mode of storing gunpowder therein, and for limiting the quantities of gunpowder to be kept therein, and in relation to the care and management of such vessels, and for the safe keeping of such gunpowder, and in relation to the receiving and delivering of gunpowder into and from the said vessels, as to such Principal Secretary may seem proper; and the officers of the War

Master-General of the Ordnance may make Regulations concerning vessels moored in the River Mersey.

Department shall have power at all times to enter the said vessels and every part thereof, and to examine any person found therein touching the observance of the said regulations and directions; and such regulations and directions shall be published in the "London Gazette," and shall take effect at such time as shall be therein expressed in that behalf, or if a time be not so expressed, then at the expiration of seven days after such publication thereof; and if any owner, lessee, or occupier of any such vessel, or any person having the care or control of any such vessel, wilfully fail in the due performance or observance of such regulations and directions, or if any person use for the reception or storage of gunpowder any vessel in the said river, not being a vessel moored in a place appointed (and for the time being continuing to be a place) for mooring vessels for that purpose, he shall be guilty of misdemeanour.[1]

Penalty on Persons failing to observe such Regulations.

Exemption of magazines in the Mersey.

Nothing in the Explosives Act, 1875, with respect to the keeping of gunpowder shall apply to any vessel for the storage of gunpowder moored in the river Mersey at a place appointed in pursuance of the 14 and 15 Vict., cap. 67; nor shall anything in this Act affect the powers of the Commissioners of the Admiralty, or a Secretary of State, or the Commissioners for the Conservancy of the river Mersey under the said Act: 38 Vict., sec. 99.

Provided that any explosive other than gunpowder shall not be kept in such vessel except in pursuance of a license under the Act of 1875.

Liverpool and Mersey Docks.

By Articles of Agreement of the 20th day of April 1861, between the Mersey Docks and Harbour Board of the one part and Her Majesty's Principal Secretary of State for the War Department of the other part, the Board entered into an engagement with the said Secretary of State to demise and assure at a nominal rent unto him and his successors, for the term of one thousand years from the date of such agreement, in trust for Her Majesty, her heirs and successors, two several pieces of land, part of the Mersey Dock Estate on the Lancashire side of the River Mersey, and formerly part of the strand of the said river, one of such parcels of land (intended for the site of a battery) being a triangular piece of land, west of the Bootle land marks, and situate at the extreme north-west corner of the Mersey Dock Estate, and containing by admeasurement 4,500 square yards or thereabouts (particularly delineated in the plan annexed to the said agreement), and the other of such parcels of land (also intended for the site of a battery) being a piece of land situate on the Salisbury Dock Pier, and containing in the 24 & 25 c. 188, s. (L. &)

[1] The Regulations and Directions now in force under this section are dated January 1879, and are to be found in the "London Gazette" of 21 November 1879.

whole by admeasurement 800 square yards or thereabouts (also particularly delineated in the said plan).

Agreement to demise land to the Secretary of State for the War Department confirmed.

On the 22nd July 1861, "The Mersey Docks (Corporation Purchase) Act, 1861" (24 and 25 Vict., cap. clxxxviii) enacted, that the said recited Articles of Agreement should be and the same were thereby confirmed, and that it shall be lawful for the Board to grant unto Her Majesty's Principal Secretary of State for the War Department and his successors, at a nominal rent, for the term of one thousand years, to be computed from the date thereof, in trust for Her Majesty, her heirs and successors, the said two several parcels of land, and generally to carry out all the several matters, articles, and agreements comprised in the said recited Articles of Agreement, as fully and effectually, to all intents and purposes, and in the same manner in all respects as if such agreement had been expressly authorised by and had been entered into by the Board in pursuance of the provisions for that purpose contained in that Act.

By Articles of Agreement of 5th May 1873, between the said Principal Secretary of the one part and the said Board of the other part, it was (*inter alia*) agreed:—

(1.) That for the sum of 10,000*l.* all the right, title, and interest of the said Principal Secretary, under an agreement of 27th September 1850, of and in the piece of land described at the foot hereof[1] and coloured pink on the plan, together with the fort or battery, and all other buildings erected thereon, and also of and in the carriage roads or way leading from the said battery to Regent Road, or the continuation of such road, should be sold to the said Board, and that possession of the same premises should be given to the Board on the 1st January 1874, and thereupon the agreement of 27th September 1850 should be deemed to be cancelled.

(2.) That upon the completion of the new fort to be called "Seaforth Battery," the Board should demise to the said Principal Secretary, free of rent, the piece of land forming the site of the said Seaforth Battery, described at the foot hereof[2] and coloured yellow on the plan, with all buildings thereon, for a term of 1,000 years, as from the 28th September 1850.

(3). That the Board will at their own cost make, and at all times thereafter maintain in good condition, a good road of at

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[1] All that piece of land, containing by admeasurement 7,000 square yards or thereabouts, situate in the borough of Liverpool, formerly part of the shore of the Mersey, lying on the westwardly side of and near to the passage between the Canada and Huskisson Docks, bounded on the northwardly, eastwardly, and southwardly sides thereof by land of the Board, and on the westwardly side of the river Mersey, and which said piece of land, now forming the site of the fort known as the North Fort is delineated and is coloured pink on the plan A. annexed to this agreement.

[2] All that piece of land, containing by admeasurement 4,130 square yards or thereabouts, situate in the borough of Bootle-cum-Linacre, at the north-west angle of the estate of the Board, formerly part of the shore of the Mersey, and bounded on the westwardly side thereof by the river Mersey, and on all other sides thereof by land of the Board, and which said piece of land, which forms the site of a battery now being constructed thereon, intended to be called the Seaforth Battery, is delineated and is coloured yellow on the plan B. annexed to this agreement.

least ten yards wide from the Seaforth Battery to the road forming the continuation northwardly of Regent Road between the points C and D on the plan B, and Her Majesty and her successors shall at all times during the time above mentioned enjoy the free and uninterrupted use of such road for all purposes in connection with the Seaforth Battery.

The Board will at all times, when required by Her Majesty's Secretary for the War Department, or his successor in that office, give every facility for the introduction to the Seaforth Battery through and over their estate, and for the subsequent examination, repair, or reinstatement of pipes for supplying gas and water to the said battery from the mains of any corporation or company who may undertake to furnish such supply, and Her Majesty's Secretary for the War Department, and his successors in that office, will in all cases reinstate and restore to its former condition any road, quay, land, stone, brickwork, or property of the Board which may be broken up, pulled down, removed, or altered for the laying down, examination, repair, or reinstatement of any such pipes.

During the continuance of the demise to be made as above mentioned, the Board, or their successors or assigns, will not erect or construct, or allow to be erected or constructed, within the radius shown by the line coloured blue on the plan B, any building of any kind other than those permitted by section 34 of "The Defence Act, 1860," without having first obtained the written consent of Her Majesty's Secretary for the War Department, or of his successor for the time being in that office, for that purpose; and further, that the height of that part of any such building which may be erected with such consent which shall face the said battery shall not under any circumstances exceed 40 feet from the surface of the ground.

During the continuance of the demise to be made as aforesaid, the Board, or their successors or assigns, will not construct, or allow to be constructed, any dry or wet dock, canal, or other excavated work for the use of vessels of any kind within 30 yards from any part of the Seaforth Battery without having first obtained such written consent for that purpose as is specified in the last preceding clause of this agreement; and further, that no work which may be executed under this clause with such consent shall under any circumstances be made so near the said battery as to injure or endanger the foundations thereof, or as to admit of the yards of any vessel using such work coming within the distance of five yards from any wall of the said battery.

On the 21st July 1873, by "The Mersey Dock (Liverpool Dock Extension) Act, 1873," it was enacted that the agreement between Her Majesty's Principal Secretary of State for the War Department of the one part, and the Board of the other part, is hereby confirmed, and full effect shall be given thereto accordingly. 36 & 3 c. 148. (L. Schedu

London, Tower of.

Adjacent to the Tower is Great Tower Hill, the area of which, by "The Great Tower Hill Act, 1869," passed on the 13th May 1869, is thus defined:—

From the west end of Postern Row by the outside of the foot pavement northward to the south end of Cooper's Row, and from thence by the outside of the foot pavement made before the inclosure in the front of the Trinity House to the entrance into Muscovey Court, and from thence by the outside of the foot pavement running southward by the end of Barking Alley to the north-east end of Tower Street, and from thence eastward to Tower Ditch, and from thence by the side of the said ditch to the west end of Postern Row aforesaid.

32 Vict., c. 12, s. 2. (L. & P.) The area is extra parochial, and by this Act it is declared that the expression "Tower, district of," used in schedule (B.) to "The Metropolis Management Act, 1855," as the designation of a parish or precinct of Old Tower Without Great Tower Hill, as if the parish or precinct of Old Tower Without and Great Tower Hill had been specifically named in the said schedule (B. instead of "Tower, district of," and Great Tower Hill shall be and shall be deemed to have always since the passing of "The Metropolis Management Act, 1855," been part of the district of Whitechapel District Board, and part of the parish or precinct of Old Tower Without. Interpretation of "Tower, district of," &c.

Ibid, sec. 8. Nothing contained in this Act shall extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors. Saving rights of the Crown.

The Garden on Tower Hill.

On the 11th August 1879, "The Metropolitan and District Railways (City Lines and Extension) Act, 1879" (42 & 43 Vict., c. 201), received the Royal Assent, which confirmed an agreement of 15th May 1879, providing (*inter alia*) as under.

42 & 43 Vict., c. 201. (L. & P.) Schedule. If within six months from the passing of the Act the Companies shall, by notice in writing under their corporate seals, signify to the Secretary of State for War their election not to construct the works thereinbefore mentioned, but in lieu thereof to construct the works thereinafter mentioned, and if the Secretary of State for War shall by any writing under his hand consent thereto, then and in that case the preceding clauses from three to twelve inclusive of this agreement shall be rescinded, and the clauses from 14 to 28 inclusive thereinafter contained shall be substituted in lieu thereof.

The clauses referred to are as follows:—

14. Before entering upon the garden for the purpose of constructing the line of railway or station, or in any way interfering with the garden, the Companies shall pay to the said Commissioner or Commissioners, the sum of 5,000*l.* as the consideration money for the grant hereinafter mentioned, and such payment shall include any interest which the Crown may have in the soil of the roadways adjoining the garden.

15. The line of railway to be constructed shall have for its centre line the centre line as laid down on sheet No. 4 of the deposited plan, or not deviating therefrom more than five yards on either side, without the consent in writing of the said Commissioner or Commissioners; and the works of the line and station, including the side walls thereof, shall not occupy a greater width than 75 feet in the extreme.

16. For a width of ten feet along each side of the centre of the space occupied by the line of railway and station the railway may be open, but the residue of such space shall be covered in and arched over, so that, except the portion that may be occupied for a station building as hereinafter mentioned, the extreme height of the covered way or arched covering shall be such that when two feet of vegetable soil is placed upon such covered way or arched covering, the level of the surface of such soil over the covered way or arched covering shall be the garden level.

17. The open space, 20 feet in width, shall be protected on each side by a handsome iron railing not exceeding four feet six inches high above the garden level, fixed on Portland stone or iron curb, and both of design and execution to be approved in writing by the said Commissioner or Commissioners, and the space below the curb down to the soffit of the arched or other covering of the side spaces shall be finished on the outer faces next the open space in such manner as shall be approved in writing by the said Commissioner or Commissioners; and such railing, curb, and faces shall at all times be maintained by the Companies in proper condition, and duly painted, to the satisfaction of the said Commissioner or Commissioners.

18. The Companies shall form a bridge at each end of the garden to establish communication between the north and south sections thereof, which will be separated by the open space in a similar manner to the covered portions of the works, and such bridges shall not be less than 20 feet in width.

19. The Companies may construct a station on the garden, subject to the following conditions:—

(*a.*) The station building above the garden level shall not, without the consent in writing of the Secretary of State for War, exceed the following dimensions: (that is to say,) 50 feet from north to south, 30 feet from east to west, and 15 feet in extreme height above the garden level:

(*b.*) The eastern side of the station building shall not be more than 30 feet from the railing of the western side of the garden as shown on the plan drawn hereon:

(*c.*) The station building shall be of handsome architectural design, shall be faced on all four sides with Portland stone, and shall be erected according to design and specifications to be previously approved of in writing by the said Commissioner or Commissioners.

20. The outside of the station building shall at all times be kept free from advertising boards or posters, show-boards, or any-

thing of the like nature, but the Companies may put up the name of the railway and of the station, and exhibit all such ordinary printed time bills as contain the name of the station.

21. No building or other erection shall be constructed or set up on the garden or on roadways adjacent thereto, within the precincts of the Tower, other than those above described, without the consent in writing of the said Commissioner or Commissioners, nor shall any portion of the premises or its appurtenances above the garden level, except as mentioned in the last preceding clause, be used for advertising purposes, or for the exhibition of show-boards, or for other like purposes.

22. The Companies shall forthwith, on being put into possession of so much of the garden as may be necessary for that purpose, proceed to construct the railway and station, and shall, so far as they affect the surface of the garden or are above the level thereof, complete the same in all respects and restore and reinstate the garden (except as regards the open space 20 feet in width) within nine months after being so put into possession.

23. The Companies shall be put into possession of so much of the garden only as may be absolutely required for the actual construction of the railway and station, and the Companies shall not use any other part of the garden for the deposit of materials or plant, or for any purpose, temporary or otherwise.

24. Before commencing any works the Companies shall erect on each side of the ground into possession of which they shall have been put, along its whole length, a close boarded fence eight feet high, and shall maintain the same until the works of construction are completed, and shall at all times keep such fence clear of posting bills or advertising boards, and shall also provide temporary means of access, if necessary, to such parts of the garden as shall be cut off thereby.

25. Within the said period of nine months the Companies shall restore the railings, curb, and enclosure to the garden, with all appurtenances thereto belonging, and shall paint the whole railing around the garden, and the Companies shall at all times make good all damage to the well now existing in the garden and its appurtenances, and shall not at any time interfere with the supply of water thereto, and the Companies shall lay out the surface of the garden anew in accordance with such plan and specification as shall have been previously approved in writing by the said Commissioner or Commissioners, and which by arrangement of mounds and planting shall screen the railway from the north and south, and shall re-form the gravel paths and the drainage thereof, re-lay the grass surfaces thereof with new turf, re-form the mounds and shrubberies thereof, and plant the same with new suitable shrubs, making the garden not less ornamental than now, and generally reinstate all damage; and the Companies shall attend to the garden for six months from the date of completion of all works (including planting) hereinbefore mentioned, and shall make good all defects which may become apparent during such period; and the Companies shall execute and complete all the works

mentioned in this clause and in clauses 17 and 18 of this agreement to the satisfaction of the said Commissioner or Commissioners, to be signified in writing, and shall do all planting at the proper season of the year for such work.

26. The Companies shall not at any time use or permit to be used the railway outside the station for any other than railway purposes, nor the said station for any other purpose than passenger traffic, and shall at all times maintain the works in substantial order and condition, and from time to time make good, to the satisfaction of the said Commissioner or Commissioners, any damage or injury which may arise to the garden, its enclosures, railing, or appurtenances, by reason of the works of the Companies therein.

27. The Companies shall be at liberty at all times, when necessary, to enter on the garden for the purpose of repairing the station and covered spaces, and the protecting railing and curbs, but only on condition of executing such works with all despatch, reinstating the garden, and all works and things injured, displaced, or affected by the operations; and for the purposes of this article the trustees mentioned in clause 11 of this agreement and the Companies shall from time to time enter into such agreements as may be deemed necessary or expedient.

28. Upon the production of a certificate, signed by the surveyor of the said Commissioner or Commissioners, certifying the completion by the Companies of all the works hereinbefore mentioned, and upon the performance by the Companies of all the clauses of this agreement, the said Commissioner or Commissioners shall, on behalf of Her Majesty, in consideration of the said sum of 5,000*l.* and of the annual payment in this clause mentioned, grant to the Companies a perpetual right to form and maintain the railway across the garden, and to construct and maintain the station, and such grant shall contain a covenant by the Companies for the payment in perpetuity of the annual sum of 50*l.* to the said Commissioner or Commissioners, to be by him or them paid over to the said trustees, and to be applied towards the maintenance of the garden and the enclosure thereof.

Lydd.

On the 11th August 1876, "The South-Eastern Railway Act, 1876" (39 & 40 Vict., c. 228, L. & P.), was passed, which enacts that—

No erection to be in front of Grand Redoubt.

No building or other obstruction shall be erected or made on the land authorised to be acquired by the Company under the powers of the "Rye and Denge-ness Railway and Pier Act, 1873," in front of the Grand Redoubt in the parish of Lydd. 39 & 40 c. 228, (L.

Vict., c. 18. Where the authorised line of railway crosses property belonging to Her Majesty's War Department, such line shall be constructed between the centre line and the southern limit of deviation shown on the deposited plan. Limiting line where crossing property of War Department.

18. That in exchange for the land taken by the Company for the purposes of constructing the line of railway authorised in the parish of Lydd, the Company shall acquire and convey to Her Majesty's Principal Secretary of State for the War Department an equivalent area in land in such situation and direction as may be required and approved by the said Principal Secretary for an extension of the existing site of the battery. An equivalent in land to be provided by the Company for the Battery.

Milford, Pembroke.

{ 31 Geo. II., c. 38.
{ 32 Geo. II., c. 26.

Netley Hospital Estate.

c. 16. Prior to 16th May 1862 this estate was subject to certain rights of way for foot passengers, which would (if suffered to remain) have interfered with the hospital purposes; but by the 25 Vict., cap. 16, it was enacted that all rights of way through or over the said estate shall cease, and the said Principal Secretary shall stop up or cause to be stopped up the said ways, and thereupon public notice shall be given of the stopping up thereof, by advertisement in the "London Gazette" and in some local newspaper published or circulating in the county of Southampton, and shall be affixed on the outer door of the church of the said parish, or some other public place in the said parish.[1] Certain rights of way over Netley Hospital Estate extinguished.

Netley, Itchen Bridge.

Vict., g, P.) On 29th June 1863 "The Itchen Floating Bridge Act, 1863," (26 & 27 Vict., c. 102, L. & P.), passed for construction of roads, works, &c., including a floating bridge over the River Itchen.

The passage of troops toll free was claimed under the exemption in the Annual Mutiny Act, but the Court of Queen's Bench refused to sanction such a construction of the Act.

Grey. The Chief Justice Cockburn said the Mutiny Act exempts Her Majesty's Officers and soldiers on duty and on their march from payment of any duties and tolls "in passing along or over

[1] The owners of Hamble Cliff House have a right of way granted them for 99 years, by indenture of 31st December 1862, over the Beach Road, marked green on the map or plan of the Netley Hospital Estate, annexed to the indenture.

any turnpike or other roads or bridges, otherwise demandable by virtue of any Act already passed or hereafter to be passed." The apparatus in question conveys passengers over the river instead of the river being passed over by them: it is more in the nature of a steam ferry boat than a bridge. It does not afford a continuous means of transit for passengers across the river; the passage is only made after certain intervals of time, and during those intervals passengers must be content to wait. There is a broad distinction between such a means of transit and a bridge, which is a permanent structure and may be traversed at all times.

Newhaven.

On the 8th June 1847, an Act (10 Vict., c. 9), "The Newhaven Harbour and Ouse Lower Navigation Act, 1847," was passed, which enacts:—

Vessels, &c., in the service of Her Majesty, &c., exempted from duties.

And be enacted, that every vessel and boat belonging to or employed in the service of, or seized or detained on behalf of Her Majesty, her heirs and successors, and every vessel in the service of the Customs or Excise, or of the Corporation of Trinity House of Deptford Strond, and all officers or persons employed therein respectively, or in the service or employ of the Admiralty or Ordnance, shall have free use of the said harbour, piers, groynes, wharfs, mooring berths, and other works, without any charge or rate whatsoever being made for the same, and without any toll or rate being payable for any stores belonging to or purchased for Her Majesty's service, or for any baggage belonging to such officers or persons aforesaid, and nothing in this Act contained shall confer any power of control over any of the said vessels or boats, their officers or crews: provided always, that if any person shall claim and take the benefit of any such exemption as aforesaid without being entitled thereto, every such person shall for every such offence forfeit and pay the sum of 10*l.* 10 Vi sec. 7 (L.

Penalty on claiming exemption unlawfully.

The Act then sanctions the assessment of scots by these sections:—

When Money borrowed under 31 Geo. III., c. 76, is paid off, Scots to be collected under this Act.

The Commissioners of Sewers for the Lewes and Laughton Levels shall collect and raise for the purposes of this Act, by virtue of their power and commission as such Commissioners of Sewers, by scots to be made by them on the owners and occupiers of lands within the several districts specified in schedule, the several yearly sums following; (namely), the yearly sum of 1,166*l.* to commence in point of charge from the 1st day of October next after the payment of the money borrowed under the secondly-recited Act, and all interest thereon, and to be so collected and raised thenceforth for the period of 14 years; the yearly sum of 877*l.* to commence on the *Ibid.*

expiration of the last-mentioned period of 14 years, and to be so collected and raised thenceforth for the further period of 14 years; and the yearly sum of 588*l.*, to commence on the expiration of the said last-mentioned period of 14 years, and to be so collected and raised thenceforth and for ever thereafter; and the yearly sum of 578*l.* (part of the said yearly sum of 1,166*l.*); and also the yearly sum of 289*l.* (part of the said yearly sum of 877*l.*), shall be collected and raised on the lands situate within such respective districts as aforesaid, by an annual scot made thereon, in such manner that the scots assessed upon the lands situate within such districts respectively shall, in every case, bear the same proportion to each other as the proportionate scots per acre set opposite to the same districts respectively in the said schedule bear to each other; and the residues of the said yearly sums of 1,166*l.* and 877*l.*, as well as the whole of the said yearly sum of 588*l.*, shall be collected and raised on the same lands, by an annual scot made thereon in such proportion as the said Commissioners of Sewers shall think fit, and all the said several yearly sums so to be collected and raised shall be paid by the said Commissioners of Sewers to the trustees.

c. 9, And be it enacted, that the scots hereby authorized to be collected and raised shall be apportioned between and paid by the respective owners and occupiers of the lands in respect whereof the same shall be assessed, in such proportion as the said Commissioners of Sewers shall from time to time settle and appoint, and in default of such appointment, in the same proportion as the assessment or scots by the said secondly-recited Act have been heretofore usually apportioned and paid.

Proportion in which owners and occupiers ar to pay Scots

[SCHEDULE.

SCHEDULE.

DEFINITION OF DISTRICTS, AND OF THE PROPORTIONS IN WHICH THE SCOTS ARE TO BE ASSESSED THEREON.

Districts.	Boundaries.	Proportionate Scot per Acre.
1. The low lands in the Lewes Level, between Newhaven Bridge and Stockferry.	On the south by the road leading from Newhaven Bridge to Seaford, on the east and west by the high grounds, and on the north by the road leading from Stockhouse in Tarring Neville to Stockferry, and from thence into the highway leading from Piddinghoe to Rodmell	Twelve-pence.
2. The low lands in the said level between Stockferry and Lewes Bridge.	On the south by the First District, on the south-east by Glynde Ritch, from the Cockfield to the Swale Bank, on the east and west by the high grounds, and on the north by Lewes	Eighteen-pence.
3. The low lands in the said level between Lewes Bridge and the upper end of Bushey Brook, in Ringmer.	On the south by Lewes Bridge, on the east by the high grounds, on the west by the high lands, from Lewes Bridge to Hamsey Bridge, and by Hamsey Cut (formerly called Mighells New Cut), and the Ouse to the upper end of Bushey Brook, and on the north by the northern boundary of Bushy Brook	Twelve-pence.
4. The low lands in the said level, between Hamsey Bridge and Barcombe Mill.	On the south by the high grounds on the west side of Hamsey Cut, on the east by the Third District, and by the high lands from thence to Barcombe Mill, on the west by the high lands from Hamsey Bridge to Barcombe Mill, and on the north by the said Mill	Four-pence.
5. The low lands in Laughton Level.	On the west and north-west by the Second District, and on the north and south by the high grounds ..	Four-pence.

Company to pay costs of construction of certain fortifications.

By "The Continental Communication (Newhaven to Dieppe) Act, 1872" the Company thereby established are to pay for or towards the costs of all such works of defence and fortifications, in extension of or in additon to the existing works and fortifications as in the judgment of Her Majesty's Principal Secretary of State for War may be rendered necessary by reason of the execution of any of the works authorized by this Act: Provided always, that in no event shall the Company be bound to pay for or towards the construction of such works of defence and fortifications a sum exceeding in the whole 5,000*l.* 35 & 3 c. 177. (1.

By "The Newhaven Harbour Improvement Act 1878" a company thereby established for the purchase of the existing harbour, obtained the sanction of Parliament for the execution of the following works:—

Description of Works.

(1.) A Breakwater, commencing on the foreshore at Newhaven, in the parish of Meeching, otherwise New- 41 & c. 71. (1.

haven at a distance of about 400 yards westward of the extremity of the existing westward entrance pier to the harbour and thence extending about 900 yards in a south-easterly direction into the sea.

(2.) A Quay or Wharf along the eastern bank of the River Ouse in the said parish, extending for a distance of about 570 yards southward from the southern end of the Railway Wharf, and connected therewith by a swing bridge across Mill Creek (with an opening of at least 30 feet wide) and thence continued by a sea wall in a south-westerly direction for about fifty yards, and thence again in a southerly direction seaward for a distance of about 280 yards, so as to form a new eastern entrance pier to the harbour; and for the purpose of the said entrance pier the company may vary or remove the existing eastern pier of the harbour.

(3.) A Sea-wall or Pier opposite to the last-described pier and at a distance varying from 200 to 300 feet therefrom, so as to form a new western entrance pier to the said harbour. The said new western pier shall commence near the north-eastern corner of the "New Fort," and shall extend for a distance seaward of about 300 yards, and be connected there with a sea-wall commencing at the southern extremity of the said new western pier and terminating at the northern terminus or commencement of the proposed breakwater. The said sea-wall will form a curve northward and will be about 450 yards in length. For the purpose of the said intended new western pier the company may vary or remove the existing western pier of the said harbour.

(4.) A Tramway (1 mile 2 furlongs 7·30 chains in length) commencing by a junction with the Brighton Railway at a distance of about 200 yards north of the Newhaven Town Station, and thence proceeding south-westward across the River Ouse over the existing bridge and thence southward along the western bank of the river and terminating at the northern terminus or commencement of the said breakwater.

The said works 1, 2, 3, and 4, are hereinafter referred to as the First Section of Works.

(5.) A Dock on the eastern side of the River Ouse partly in the said parish of Newhaven and partly in the parish of Bishopstone, and occupying a space of about 24 acres, between the intended quay or wharf (2) on the west, Mill Creek on the north, the Tide Mill on the east, and the sea shore on the south, and for the purpose of affording access to the said dock from the harbour and for other purposes in connection therewith the company may construct between the intended quay or wharf (2) and the dock (5), a

chamber and lock-gates at or near the centre of the western end of the said dock, and may construct around and by the sides of the said dock all necessary walls, embankments, quays, wharves, and other works.

(6.) A Sea-wall about 750 yards in length parallel to and about fifty yards from the southern side of the dock commencing in the said parish of Newhaven at the quay or wharf (2) hereinbefore described, and extending in an easterly direction to the west end of the existing sea-wall of the "Tide Mill" in the parish of Bishopstone.

(7.) The straightening the "Mill Creek" in the said parishes of Newhaven and Bishopstone between the Tide Mill on the east of the said Railway Wharf on the River Ouse on the west.

The said works 5, 6, and 7, are hereinafter referred to as the Second Section of Works.

First section of Works to be constructed first.

It was provided by the 11th Section of the Act that the first section of works shall be first undertaken by the company, and each part thereof shall be proceeded with concurrently and all the first section of works shall be completed before the second section is undertaken. 41 & 42 Vict. c. 71, sec. 11.

Newry, Armagh.

As to the purchase of the Ulster White Linen Hall.
40 Geo. III., c. 26 of the Irish Parliament.

Pembroke (see Milford).

Plumstead Ranges.

On the 15th July 1850, "The Victoria (London) Dock Act, 1850," (13 & 14 Vict., c, 51, L. & P.) was passed, for making a dock on the north side of the Thames by a company, and contains this section:—

If practice range on Plumstead Marshes be discontinued, Company to pay a sum towards another practice range.

And be it enacted, that if, after the completion of the said dock, the Principal Officers of Her Majesty's Ordnance should be compelled to discontinue the practice range on Plumstead Marshes by reason of the great increase in the shipping passing up and down the River Thames, then the said company shall pay to the said Principal Officers, towards defraying the cost of providing another practice range, such a sum of money as it may be fair and reasonable that they should pay in proportion to the sums which may be contributed for the like purpose by the other traders of the Port of London or by the Lords Commissioners of Her Majesty's Treasury; and in case of any dispute as to the amount to be paid by the said company, then the same shall be settled by arbitration in manner provided by the Lands Clauses Consolidation Act, 1845.[1] 13 & 14 Vict. c. 51, sec. 41. (L. & P.)

[1] This is also repeated in the Victoria Dock Act, 1853 (16 & 17 Vict., c. 131), as sec. 75.

Plumstead Common and Training Ground.

"The Plumstead Common Act, 1878,"[1] enabled the Metropolitan Board of Works to purchase this Common from Queen's College, Oxford, for the purposes of that Act.

The preamble contains these (amongst others) recitals:—

And whereas Her Majesty's Principal Secretary of State for the War Department claims on behalf of Her Majesty by virtue of immemorial user a right or easement of using the common or some part thereof for the parade, drill, and exercise of Her Majesty's troops thereon.

And whereas with a view to facilitate the maintenance and regulation of the common as a place of recreation for the public, it is expedient that the future user of the common, for the purposes of such parade, drill, and exercise as aforesaid should be restricted and regulated, and whereas it is expedient that the Board be empowered to purchase by agreement or otherwise rights of common and other rights in and over the common and green respectively, so far as they find the purchase thereof to be necessary for securing the objects of this Act, and to extinguish, limit, or regulate the same when purchased.

And whereas plans showing the common with a book of reference thereto, have been deposited with the Clerk of the Peace for the county of Kent, which plans are hereinafter referred to as the deposited plans.

The sections—so far as they affect the interests of the Department—are as follows:—

1 & 42 Vict., c. 145, sec. 4. (L. & P.)

As to portion of the Common to be used by the Military.

From and after the completion of the said conveyance that part of the common which is coloured blue on the map or plan (marked F 315) thereof which is signed in duplicate by Her Majesty's Principal Secretary of State for the War Department, and by the Chairman of the Metropolitan Board of Works, and to be hereafter held by their respective officers or such other part of the said common as may at any time hereafter, either in substitution or in addition to such blue part, be mutually agreed upon by the said Principal Secretary and Chairman to be set aside for such purpose shall for ever be kept open as a parade, camping, training, or exercising ground to be used by all branches of Her Majesty's Regular, Auxiliary and Reserve Forces, when and as often as need or occasion shall require, and the said Principal Secretary and his successors shall at all times restore and make good the surface of the part coloured blue, or such substituted or additional part, so that the same may, as heretofore, be kept in and restored to good order and condition as a parade, camping, training, or exercising ground for Her Majesty's Forces as aforesaid, and for such liberty or easement over the part coloured blue, as is hereinbefore reserved or granted to the said Principal Secretary, he shall pay as purchase-money to the said Metropolitan Board of Works the sum of 4,000*l.*

[1] 41 and 42 Vict., c. 145 (L. & P.) Before this Act passed the rights of common had been the subject of much litigation. Warwick *v.* Queen's Coll., 3 Eq., 683; 4 Eq., 254; 3 Ch., 815; 10 Eq., 105; 6 Ch., 716. Books E, 353; F, 93; G, 341; I, 902; K, 213. Cowing *v.* Secretary of State; printed by House of Commons, 6th July, 1877. Book L, p. 19.

Common to be under management of the Board.

Subject as aforesaid and so as not in any way to interrupt or interfere with the free use and enjoyment of the liberty or easement hereinbefore mentioned, the common, as the same is delineated in the deposited plans, shall be regulated and managed by the Board as a place of recreation for the public. 41 & 42 Vict. c. 145, sec. 5.

Powers of Board as to improvement of Common and Green.

The Board may (subject to the approval and consent of the said Principal Secretary as to the part coloured blue) execute any works of drainage and improvement of the common, so far only as may be required for the purposes of the Metropolitan Commons Acts, and shall preserve the turf and grass of the uncoloured portions, and for this purpose may inclose by fences for short periods such portions as may require rest to revive the same, and shall also preserve the trees and so much of the gorse as they may deem desirable, and may plant or otherwise beautify the common, but shall do nothing that shall otherwise vary or alter the natural features or aspect of the common. *Ibid*, sec. 8.

Common to be preserved from encroachment.

The Board shall maintain the common as delineated in the deposited plans free of all encroachment, and shall permit no trespass on or partial or other inclosure of any part thereof, and no fences, posts, rails, or other matters or things shall be maintained, fixed, or erected thereon without the consent in writing of the Board. *Ibid*, sec. 9.

Power to make bye-laws and regulations.

The Board has the ordinary powers of making bye-laws and regulations for the preservation of order on the common, with this proviso, that no such bye-laws shall be repugnant to the laws of England or the provisions of this Act, and no such bye-laws shall be of any force or effect, unless the same shall be sanctioned and confirmed by Her Majesty's Secretary of State for the Home Department for the time being, and as to the part coloured blue by Her Majesty's Principal Secretary of State for the War Department, who are hereby empowered to confirm or disallow the same as they may think proper, provided that any certificate of such confirmation purporting to be signed by the said Secretaries of State for the time being shall be *primâ facie* evidence of such confirmation in all courts of justice and other places whatsoever.[1] *Ibid*, sec. 10.

The other sections material are:—

Restrictions as to grazing cattle, &c.

Except for those persons who now by law are entitled to do so, it shall not be lawful to turn out on the common for grazing any cattle, sheep, or other animal. *Ibid*, sec. 14.

Public roads, &c., not to be under the care of Board.

Nothing herein contained shall be construed as placing any of the public roads or highways on or across the common under the care of the Board, or shall prevent the respective local authorities by their officers and servants taking such portions of the common as they may now by law be entitled to take for the purpose of widening the said roads or highways to the width they may now be compelled by law to make, but it shall not be lawful to make or form any new roads over and across the common without the consent in writing of the Board. *Ibid*, sec. 15.

[1] The bye-laws of 21st March 1879 do not prohibit the use of the common (blue) under section 4, but otherwise regulate the common, imposing a penalty of 5*l*. upon (*inter alia*) any person "interfering with, obstructing, or annoying any persons exercising as Volunteers."—Bye-laws (Sub-secs. 241 and 243.)

41 & 42 Vict., c. 145, sec. 16. Subject to the provisions of this Act and the provisions incorporated with this Act, the Board may from time to time after such conveyance of the estate and interest of the College in the common, as aforesaid, purchase by agreement or otherwise all such rights of common, commonable rights, rights of way, and other rights, estates, interests, and privileges in, over, or affecting the common respectively, as they think it requisite to acquire for the better execution of this Act, and for that purpose every such right, estate, interest, or privilege, shall be deemed lands. Power to purchase commonable rights, &c.

Ibid, sec. 17. When the Board have purchased under this Act any right of common, commonable right, right of way, or other right, estate, interest, or privilege in, over, or affecting the common, they may, as they think most expedient with a view to securing the free use of the common by the public for purposes of exercise and recreation and the better execution of this Act, either extinguish the same or retain, hold, and exercise the same, wholly or partially. Power to extinguish rights, &c. when purchased.

Ibid, sec. 18. The Board in any case, if they think fit, instead of purchasing wholly any right of common, commonable right, right of way, or other right, interest, or privilege in, over, or affecting the common may by agreement purchase the same partially, or purchase a right to impose limitations or restrictions on the same, and otherwise to regulate the exercise and enjoyment thereof, and may from time to time exercise all such powers as are conferred on them by any such agreement. Power to limit rights of common by agreement.

Ibid, sec. 19. No estate, interest, or right of a profitable or beneficial nature in, over, or affecting the common, shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by virtue of this Act, without compensation being made or provided for the same, and such compensation shall in case of difference be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase, and taking, or the injurious affecting of lands under the provisions of the before-mentioned Lands Clauses Consolidation Act. Provision for compensation.

Ibid, sec. 20. The provisions in this Act contained for the acquisition by the Board of rights affecting the common shall extend to the acquisition by them of and the granting or surrendering by Her Majesty's Principal Secretary of State for the War Department and his successors, from time to time, of all or any part or parts of the rights which Her Majesty's said Principal Secretary or his successors may claim to have for the time being in, over, or affecting the common or any part or parts thereof. As to acquisition or surrender of rights of War Office.

Plymouth, and see Devonport.

1. *Water Leet.*

The 27 Elizabeth, c. 20[1] (1584–5) is the first statute having reference to this subject.

[1] Statutes of Realm, Vol. IV., p. 728.

It sets forth that for the "most part of the year little fresh water is to be found within a mile of the town," and the several evils resulting therefrom. Then that there is the river Mewe or Mevye—distant 8 or 10 miles—which might be brought to the town.

The Act then gave authority to the Corporation of Plymouth to dig a ditch in breadth between 6 or 7 feet over in all places between the town and any part of the river, and to do all things necessary whereby the river might be brought and continued in the town, making recompense or compensation to the several owners of the soil through which the ditch passed.

Under the powers contained in this Act a ditch or trench, commonly known as the Plymouth Leat, was made, commencing at the "Weir Head," and thence passing through the parishes of Sheepstor, Shaw, Meavy, Bickleigh, Buckland-Monachorum, Tamerton Foliott, Saint Budeaux, Weston-Peverell to the parishes of Saint Andrew and Charles in Plymouth,

In or about 1824 it became necessary to supply the Victualling Establishment at Cremill Point and the Naval Hospital at East Stonehouse from the Plymouth Leat, and to enable the corporation to enlarge the leat and to establish dams and reservoirs, the 5 Geo. IV., c. 49, was passed (receiving the Royal Assent on the 3rd June 1824). The Admiralty under this (2nd) Act have a supply daily of 400 tuns of water, and pay to the Corporation a yearly rent of 250*l.* for the same. The Admiralty may also demand a further daily supply of 80 tuns of water at a further rent of 50*l.* per annum.

Other provisions are made by "The Plymouth Corporation Water and Market Act, 1867," which have reference to the War Department. These are contained in the three following sections:—

Contracts between Corporation and Secretary at War, &c., for supply of water.

The Corporation from time to time, with the consent of two-thirds of the members of their council present at a meeting convened for the purpose, and Her Majesty's Principal Secretary of State for the War Department, and the Admiralty, and the Sutton Harbour Improvement Company, and the Plymouth Great Western Dock Company, and the Commissioners for putting in execution "The East Stonehouse Waterworks Act, 1851," and any other public and local bodies, from time to time, may enter into and carry into effect contracts for the supply by the Corporation of Water to or for those authorities and bodies respectively, whether in bulk or otherwise, and for what purposes soever, and the contracts respectively may be for such times and for such remuneration and on such terms and conditions whatsoever as the contracting parties think fit, and the Corporation, by means of the waterworks, from time to time may supply water accordingly, and the contracting authorities and bodies respectively may apply any of the funds or revenues belonging to them respectively or at their respective disposal for the fulfilment on their part of the contracts so entered into by them respectively. 30 & 31 V c. 128, sec. (L. & P.

Vict., c. 17. P.) The water from time to time supplied by the Corporation under any contract under this Act with any of those authorities and bodies may be used by them respectively without as well as within the water limits. User of water under contracts with Secretary at War, &c.

. 18. Provided that the Corporation shall not supply any water to any place beyond the borough of Plymouth to the detriment of the supply of water for domestic purposes within the borough of Plymouth, or to the detriment of the supply for shipping purposes, or to the detriment of Her Majesty's service, under the secondly-recited Act, and shall not supply any water by agreement to the detriment of any supply which by this Act they are compellable to afford, and shall not supply within the parish of Stoke-Damerel, or for use within that parish, any water, except to the Company of Proprietors of the Plymouth Dock Waterworks, without the previous consent in writing of that company, and shall not, except for Her Majesty's service, under the secondly-recited Act, supply within the parish of East Stonehouse, or for the use within that parish, any water, except to the Commissioners for putting in execution "The East Stonehouse Waterworks Act, 1851," without the previous consent in writing of those Commissioners. Restrictions as to supply.

2. *Water Supply.*

In 1793 an Act was passed for supplying the towns of Plymouth Docks, Stoke Damerel, Stonehouse, and the parts adjacent with water. A company was established, and their Act contains these provisions:—

III., c. 15. And whereas the Master-General and Principal Officers of His Majesty's Ordnance have consented and agreed that the said company of proprietors shall be at liberty to lay pipes, or construct an arched tunnel, and make a reservoir in and through the lands hereinafter mentioned; it is hereby further enacted, that it shall and may be lawful to and for the said company of proprietors to lay down pipes, or construct an arched tunnel, in and through such parts of certain lands heretofore purchased for the use of His Majesty's fortifications at Plymouth Dock aforesaid, which lie on the outside of the lines there, as the Master-General or Principal Officers of the Ordnance for the time being shall direct or appoint (such pipes, or the crown of the arch of the said tunnels, being laid one foot at the least below the present level of such land or ground), and also to place and lay down a leaden pipe, of such bore as the said company of proprietors shall find necessary, under the corner of a certain bastion, called the Granby Bastion, and also to lay down such other pipes for conveying the water in one line from the said corner of the said bastion, to the head of a certain street, called Fore Street, as may be necessary for conducting and bringing the said water into the said town of Plymouth Dock, for the supply of the inhabitants thereof, and for the other purposes authorised by this Act (such last-mentioned pipes, in The Company empowered to pass the lines, agreeable to the consent of the Board of Ordnance.

the parts where the same shall traverse the fosse or ditch, being laid three feet at the least below the bed of the said fosse); and also that it shall and may be lawful to and for the said company of proprietors, to construct and make a suitable reservoir, at such convenient place within the said lines as the said Master-General or Principal Officers of the Ordnance for the time being shall direct or appoint; and also from time to time as occasion may require, to take up, repair, relay, and maintain such pipes or arched tunnel and reservoir respectively.

The Principal Officers and Commissioners of the Board of Ordnance to be supplied by the Company with the water after-mentioned.

And whereas the said Master-General and Principal Officers of His Majesty's Ordnance are desirous that the several departments of the office of Ordnance at Plymouth Dock aforesaid should be supplied with water in manner hereinafter mentioned; it is hereby further enacted, that the said company of proprietors shall regularly supply the several departments of the said Office of Ordnance at Plymouth Dock aforesaid with the quantity of wholesome water hereinafter mentioned; that is to say, the Governor's house and offices within the said lines shall be supplied with water from such reservoir by a pipe of two inches bore; the troops quartered in each square of the barracks now standing within such lines shall be supplied with water from such reservoir by a pipe of one-inch bore to each square of such barracks; the gun wharf shall be supplied with water from such reservoir by a pipe of three inches bore, to be brought to such part of the said gun wharf as the Master-General or Principal Officers of the Ordnance for the time being shall direct or appoint; and the new powder magazine at Keyham Point shall be supplied with water from such reservoir by a pipe of one-inch bore at the least, or by such larger pipe (not exceeding two inches in bore), as may be found necessary, (inevitable accidents by the breaking of the pipes, inclemency of the weather, or during the times of necessary repairs, only excepted); in consideration of which said several supplies of water, the Principal Officers of His Majesty's Ordnance for the time being shall yearly and every year, so long as such supplies shall be duly made according to the directions of this Act, by and out of the treasury of the said office, well and truly pay, or cause to be paid, unto the said company of proprietors, the clear yearly sum of 200*l.*, the same to be paid by four equal quarterly payments in each and every year, the first of such quarterly payments to commence on and be computed from the day whereon the said company of proprietors shall have conducted and brought such water into the said reservoir, and have laid on the same to the several places and in manner hereinbefore directed. 33 Geo. I c. 85, sec.

The water supplied for the Ordnance not to be appropriated to any other uses.

That the water hereinbefore directed to be supplied for the use of the said several Departments of His Majesty's Ordnance at Plymouth Dock aforesaid shall not be applied or disposed of for any other use or purpose whatsoever, but that so much of the water hereinbefore directed to be conveyed to such departments respectively, as shall not be necessarily expended in or for the use of such departments, shall revert and belong to the said company of proprietors; and that if any soldier, artificer, *Ibid*, sec.

workman, or other person belonging to or employed in any such departments, or any other person or persons whomsoever, shall collusively or colourably supply the inhabitants of the said town of Plymouth Dock, or of the parts adjacent, with any part of such water, then and in every such case the person so offending shall for every such offence forfeit and pay to the said company of proprietors a sum of money not exceeding 20*s.* nor less than 10*s.*, to be recovered in like manner as any penalty or forfeiture can or may by virtue of this Act be recovered.

33 Geo. III., c. 85, sec. 19. Encampments to be supplied.

That whenever His Majesty's troops or militia shall be encamped within the said lines, or in parts adjacent without the said lines, it shall and may be lawful to and for the Master-General or Principal Officers of the Ordnance for the time being, during such encampment as aforesaid, to supply the said troops or militia, and the followers of such camp, with so much of the said water as may be necessary or proper for their use and consumption, and for that purpose to lay any additional pipe or pipes to or from the said reservoir, or to or from any main pipe or other pipe or pipes which, in pursuance of this Act, shall be then laid within the said lines, without any compensation whatsoever to be made or given to the said company of proprietors, or otherwise, in respect of such occasional supply of water or the laying down of such pipes as lastly above-mentioned, any thing hereinbefore contained to the contrary thereof in anywise notwithstanding.

Ibid, sec. 21. Repairs of pipes.

That when and as often as any of the said pipes hereinbefore required to be laid down by the said company, shall from any cause whatsoever want repair, or be so far damaged or decayed as to require new ones in their stead, and the said company of proprietors, or their successors, shall not, in the opinion of the said Principal Officers for the time being, cause such repairs or new work to be done with all the dispatch that may be, and to the approbation of such surveyors as aforesaid, or if it shall be made appear to the said Principal Officers, or any of them, have failed to issue and deliver supplies of the said water to the extent hereinbefore stipulated and mentioned, it shall and may be lawful to and for the said Principal Officers, from time to time, in any of the said cases, and as often as the same shall happen, to mulct the said company of proprietors and their successors, and make such deduction (by way of penalty) out of the said annual rent or sum of 500*l.* as they shall judge fit; and that it shall be lawful for the said Principal Officers to cause such repairs or new work to be done, and to deduct and retain the amount thereof, in like manner, out of the said annual rent.

3. *Millbay Docks.*

On the 18th August 1846, "The Plymouth Great Western Dock Act, 1846," (9 and 10 Vict., c. 383, L. & P.) was passed for the construction of docks at Millbay, containing these sections:—

Troops, &c. may be embarked or disembarked free of rates.

Provided always, and be it enacted, that when and as often as it may be expedient for the public service that any troops in the service of Her Majesty, or any guns, ordnance, or naval stores belonging to Her Majesty, should be embarked and disembarked at the said docks, all such troops, together with their arms, horses, baggage, and equipments, and all such guns, ordnance, and naval stores, shall and may be embarked or disembarked accordingly, at any dock, pier, or landing place by this Act authorised to be constructed, and it shall not be lawful for the company to demand or receive in respect of such embarkation or disembarkation any of the rates or dues by this Act authorised to be levied and taken by them. 9 & 10 c. 383, s (L. &

Officers and men in the service of Her Majesty may land at any of the Docks.

Provided also, and be it further enacted, that it shall be lawful for all officers and men serving on board and coming from any of Her Majesty's ships, and all military officers in the service of Her Majesty, and all persons belonging to any public department of the realm, when engaged on actual service, to land in boats at any of the said docks or piers as often as occasion shall require. *Ibid*, sec

Act not to extend to ships or vessels in the service of Her Majesty, &c.

And be it enacted, that nothing in this Act contained shall extend to any of Her Majesty's Ships of War, or any vessel employed in the service of Her Majesty, or of the Ordnance, Customs, Excise, or of Her Majesty's Postmaster-General, or of the Corporation of Trinity House of Deptford Strond. *Ibid*, sec

4. *St. Budeaux Road.*

On 2nd July 1847, "The Cornwall Railway Act Amendment and Deviation Act, 1847," (10 and 11 Vict., c. 72) was passed, which enacts:—

Crossing of a certain road to be approved of by Board of Ordnance.

And whereas a certain road in the parish of Saint Budeaux in the said county of Devon, belonging to Her Majesty's Ordnance will be crossed by the said railway, or that it may be necessary to make a new road in lieu thereof: Be it enacted, that the mode of crossing such road, or making any new road in lieu thereof if necessary, and all works which may be required in reference thereto, shall be submitted to and be performed under the superintendence and to the satisfaction of the Master-General and Principal Officers of Her Majesty's Ordnance, and under the direction of the Commanding Royal Engineer for the time being of that District. 10 & 11 c. 72, se (L. &

Portland Castle.

By an Act (6 Geo. IV., c. 121, L. & P.) which received the Royal Assent on the 10th June 1825, authority was granted to a company to make and maintain a railway or tramroad in the parish of Saint George, in the Island of Portland, subject (*inter alia*) to this condition:—

V., c. 81. P.) Provided also, and be it further enacted, that the said railway or tramroad shall be so constructed as not to interfere with or impede, by any embankment or otherwise, the military defence of the Castle of Portland; and that no building shall be erected upon or near the said railway or tramroad, or upon any land adjoining to the said Castle, within 200 yards therefrom. The railway not to interfere with the Military Defence of Portland Castle.

Portsmouth, including the adjacent Parishes.

7 Anne, c. 26.
8 Anne, c. 21.
9 Geo. I., c. 32, exchange of lands with Thomas Missing, Esq.
31 Geo. II., c. 39.
*32 Geo. II., c. 30.
33 Geo. II., c. 11.
*23 Geo. III., c. 87.
23 Geo. III., c. 71.

These Acts appear only to vest and revest land in their former owners.

*23 Geo. III., c. 87.
*24 Geo. III., c. 29 (Sess. 2).

The same observation applies to these Acts, but the latter Act vests other lands in the Crown.

24 Geo. III., c. 29 (Sess. 2).
26 Geo. III., c. 94.
*46 Geo. III., c. 105.
49 Geo. III., c. 39.
*54 Geo. III., c. 43.
55 Geo. III., c. 123.

1. *Haslar Bridge.*

IV., 49. P.) On 26th March 1834, the 4 Will. IV., cap. iv., was passed for making a bridge over Haslar Lake, which enacts: An annual sum to be paid by Admiralty and Ordnance, for their officers and servants

And whereas the ferry across the said lake has long been maintained and supported at a heavy expense to the public, and in consideration of the great convenience and advantage which will accrue by the erection of the said bridge, the Commissioners of the Admiralty and the principal officers of His Majesty's Ordnance have respectively agreed upon the payment of a certain annual sum for the free use and enjoyment of the said bridge by persons when engaged on duty in the public service; be it therefore enacted, that upon the payment to the said company of the respective annual sums of fifty pounds by the Commissioners for executing the office of Lord High Admiral of the United Kingdom, and of fifty[1] pounds by the principal officers of Her Majesty's Ordnance, no toll shall be demanded or taken for any of the officers or persons belonging to the Royal Hospital at Haslar aforesaid, and their families and

[1] By agreement of 19th May 1859, 60*l.* is paid by the War Department for tolls otherwise due by the wives and children of Barrack Serjeants, Master Gunners, Non-Commissioned Officers and Privates in Haslar, Fort Monkton and Blockhouse Barracks.

servants there residing, or any of the patients therein, or for any officer, sailor, soldier, or person then actually engaged on duty in the service or employment of the Admiralty, Army, or Ordnance Departments, or any workmen employed by any such departments, or by any contractors under any such departments, who may pass either by day or by night, when employed on any public works, or any members of the families of any such workmen employed to carry provisions to such workmen during working hours, nor for any horses or carriages on or in which any of the several persons so exempted shall alone be conveyed when on duty in the public service, nor for any horses or carriages employed in carrying guns, provisions, or equipments on the public service, or any naval, ordnance, barrack, or commissariat stores; and if any person shall claim and take the benefit of any of the exemptions by this Act granted, not being entitled to the same, every such person or persons for every such offence shall forfeit and pay any sum not exceeding five pounds, to be recovered and applied as other penalties are by this Act directed to be recovered and applied.

2. *Floating Bridge.*

On 9th May 1838 an Act (1 Vict., c. 11,) was passed, to establish a floating bridge between Portsmouth and Gosport, which contains these sections:—

Not to obstruct Her Majesty's Ships.

Provided always, and be it enacted, that nothing in this Act contained shall be construed to warrant or authorise in any manner the obstruction of the free passage at all times of Her Majesty's ships of war and the ships and vessels employed in Her Majesty's service into and out of the harbour of Portsmouth, but that the exercise of the right of such free passage shall be paramount to all other service. 1 Vict., sec. 107 (L. &

For securing the free passage of ships.

And for the more effectually securing such free passage, and preventing all impediments, be it enacted, that the Superintendent for the time being of Her Majesty's Dockyard at Portsmouth, or the Master Attendant of the said Dockyard, or the Storekeeper of the Ordnance respectively, shall have full power and authority at all times, when either of them shall see occasion for the passing of any of Her Majesty's ships, or of any ships or vessels employed in Her Majesty's service, to cause the plying and passage of the said floating bridge to be stopped for such time as either of them shall deem requisite to allow any such ship or vessel to pass into or out of the said harbour; and that if the passage of any such ship or vessel shall nevertheless be obstructed by means of the said bridge, or it any person employed in the management thereof shall do any act, directly or indirectly, whereby the free passage of any such ship or vessel shall be in any manner retarded, stopped, or obstructed for any period of time, every person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof before any Justice of the Peace for the county of Southampton, forfeit and pay the sum of 20*l.* to Her Majesty the Queen, to be recovered summarily in the same manner as any *Ibid.*, sec

penalties or forfeitures are or may be by law recoverable before any Justice or Justices of the Peace.

On 4th June 1840, an Act (3 Vict., c. 54) was passed to amend the Floating Bridge Act, which enacts:—

54, ·) And be it further enacted, that it shall be lawful for the said company or the board of directors thereof, and they are hereby empowered from time to time to compound with the Lords Commissioners of the Admiralty, the principal officers of Her Majesty's Board of Ordnance, or any other public department, for the payment to the said company of such annual or other sum as may be respectively agreed upon for the free use and enjoyment of the said bridges by persons when actually engaged on duty in the service or employment of the Admiralty, Ordnance, or other public department as aforesaid, and by all wagons, carts, or carriages whatsoever, and horses or other beasts when actually employed on the public service, instead and in lieu of any tolls payable in respect of such persons and wagons, carts, or carriages, horses or beasts; and if any person shall claim and take the benefit of any exemption from toll under any composition to be made by virtue of this provision not being entitled to the same, every such person for every such offence shall forfeit and pay any sum not exceeding 5*l*. Company may compound with the Admiralty, &c., for the use of the bridges.

19. And be it further enacted, that nothing in the said recited Act or in this Act contained shall extend or be construed to extend to prevent any boats (including every kind of vessel that can land at or ought to approach the beach) while actually employed in Her Majesty's service, or any of their crews, from using or landing on any part of the shore of the harbour of Portsmouth as they had been accustomed to do or might have done before the passing of the said recited Act, or to render them liable to any toll, charge, or fine whatsoever, for so doing, or for allowing any such boats to rest or continue upon any of the landing places of the said company; but nevertheless as the floating bridge or floating bridges cannot deviate from the line of the chains, it is also provided that the company shall not be answerable for any other than wilful damage done to the said boats which shall place themselves so in any way to interrupt the action of the said floating bridge or floating bridges. Boats, &c., in Her Majesty's service exempt from toll.

3. *Town Quay.*

On 4th July 1839 an Act (2 and 3 Vict., c. lxxii) was passed to enlarge the Town Quay, which enacts:—

t., 5. ·) And whereas a part of the quays and other works proposed to be erected and made under the provisions of this Act, extend in front of part of the defences of the town of Portsmouth, which are under the control of the Master-General and principal officers of Her Majesty's Ordnance. And whereas a plan of the said intended quays and works has been submitted by the said Mayor, Aldermen, and Burgesses to the inspection of the Master-General and principal officers of the Ordnance who have approved thereof, and the same has been signed on Works to be executed according to the plan approved by the Board of Ordnance.

behalf of the said principal officers and of the said Mayor, Aldermen, and Burgesses; be it therefore further enacted, that no buildings, walls, or erections, of what kind soever, that shall be erected or constructed under the powers of this Act against or in front of any part of the said defences, shall be of any other description than those specified in the said plan, without the consent of the principal officers of Her Majesty's Ordnance for the time being in writing first obtained for the purpose, and that in no case shall any such buildings, walls, or erections exceed the height of 2 feet above the high water at ordinary spring tides.

General Exemptions.

Provided always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to charge with the payment of any of the rates or dues by this Act imposed or made payable any person or persons whilst on duty and actually employed in Her Majesty's Service in respect of any of Her Majesty's ships, vessels, or boats, or of any other ship, vessel, or boat whatsoever in the service or employ of Her Majesty's Customs or Excise, or in the service or employ of the Board of Ordnance; nor of any vessel which may be seized by the officers of Her Majesty's Revenues; nor in respect of any goods or merchandize the property of the Crown or under seizure; nor of any articles shipped or landed for the public service; nor of any ship or transport or packet employed in Her Majesty's Service in carrying the mails or letters or express under the authority of Her Majesty's Postmaster-General, or in the conveyance by any of Her Majesty's ships, vessels, or boats of any officers or soldiers, or any horses, arms, ammunition, or baggage belonging to them or any of them; nor in respect of any goods, wares, merchandize, horses, beasts, cattle, carriages, or other articles going or passing upon the said floating bridge, or over or across the said harbour, which, by an Act passed in the last Session of Parliament authorizing the making of the said floating bridge, are exempted from the payment of tolls or wharfage or other dues to the Mayor, Aldermen, and Burgesses of the said borough of Portsmouth; or of any pilot boat, fishing vessel, boat not decked, or ship or other vessel arriving in distress; or the personal luggage of passengers; or to charge any person who at the time of the passing of this Act is entitled to any exemptien from toll by virtue of any lease or leases with the payment of any toll in respect of the matters or things to which such exemption extends, so long as the said lease or leases shall continue; but if any person or persons shall claim and take the benefit of any exemption as aforesaid without being entitled thereto every such person shall for every such offence forfeit and pay the sum of 40*s.* over and above the rates, dues, or sums imposed by this Act. 2 & 3 V c. 72, se (L. &

Saving Rights of Admiralty and Board of Ordnance.

Provided always, and be it further enacted, that nothing in this Act contained shall prejudice or derogate from any of the rights, privileges, jurisdiction, or authority of the Lord High Admiral or Lords Commissioners of the Admiralty, or of Her Majesty's Honourable Board of Ordnance for the time being. *Ibid.*, s

Street Tramways (Gosport):—

On the 23rd May 1879, "The Gosport Street Tramways Act, 1879" (42 Vict., c. 27) was passed, which provides by section 38:—

. 27,) Before laying down any tramways in Clarence Road over the moat bridge at the double gateway or through the ravelin of the fortifications, the Company shall, to the satisfaction of Her Majesty's Principal Secretary of State for the War Department, cause the said moat bridge to be widened to the south by turning another brick arch so as to give a clear carriage-road of 25 feet 6 inches and two footpaths not less than 5 feet 6 inches wide, and shall to the like satisfaction cause the roadway through the ravelin of the fortifications to be widened to 25 feet 6 inches in the clear, with two footpaths, each 6 feet wide, and rebuild one retaining wall. As to alteration of moat bridge and fortification

4. *Paving Commissioners, &c. (Portsea).*

On the 31st May 1843, an Act (6 Vict., c. 35) was passed for paving, &c., Portsea, which enacts these sections:—

. 35, ;) Provided always, and be it enacted, that the powers and authorities given by this Act to the said Commissioners shall not extend over any part of the lands, fortifications, pavements, buildings, roads, ways, or soil belonging to Her Majesty which is or are under the charge of the Master-General or principal officers of Her Majesty's Ordnance for the time being, but that the making and repairing of all public pavements, roads, drains, and sewers on or under any part of the said lands shall continue to be performed at the expense of the principal officers of Her Majesty's Ordnance, and the sum of 10*l.* per annum (in lieu of the sums of money heretofore paid for the said lands by the occupiers thereof) shall be paid to the said Commissioners by the Storekeeper of the Ordnance at Portsmouth for the time being for the purposes of this Act, and shall and may be levied and recovered of him in like manner as the rates or assessments hereinafter directed to be levied and recovered of any occupier of land or houses within the limits of this Act, and allowed to him in his accounts with Her Majesty's Ordnance. Provided nevertheless, that the several provisions in this Act contained respecting the authority of any Justice of the Peace to remove any nuisances or to punish persons for offences to be committed in any of the public streets within the limits of this Act shall extend to such nuisances and offences if committed on any of the lands or in any public road or highway round or contiguous to the said dockyard, and under the charge of the Naval Department of Her Majesty's service, or if committed on any of the lands or in any public highway or road leading through any Commissioners to have no power over Ordnance lands.

of the grounds belonging to Her Majesty, and under the charge of the Master-General or Principal Officers of Her Majesty's Ordnance for the time being, any thing herein contained to the contrary thereof in anywise notwithstanding.

Commissioners of the Navy may inclose the Common Hard, making another between the Dockyard and Gun Wharf.

And be it enacted, that in case the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland for the time being shall at any time hereafter think it necessary or convenient for Her Majesty's service to take in and inclose or use the road, way, hard, or passage commonly called "The Common Hard" which lies between the Gun Wharf and the Dockyard aforesaid, and shall first make and leave another road, way, hard, or passage or pier in lieu thereof, from high-water mark to low-water mark, not less than 35 feet in width in any part of the land lying between the Gun Wharf and Dockyard, then it shall be lawful for the said Commissioners for executing the office of Lord High Admiral aforesaid to take in and inclose or use the said place now called the Common Hard, and the same shall from thenceforth be disused as a public hard or way; and the said road, way, hard, or passage or pier so to be made or left in lieu thereof shall from thenceforth be deemed a public road, way, hard, or passage or pier, and be repaired in such and the same manner as the present road, way, hard, or passage between the said Dockyard and Gun Wharf is to be repaired under this Act. 6 Vict., c. 35, sec. 103. (L. & P.)

5. *The Town Pier.*

Exemptions from tolls.

On 26th June 1846, an Act (9 & 10 Vict., c. 108) was passed for making a pier at the eastern side of the harbour, which enacts, that it shall be lawful for Her Majesty's troops, with their arms, ammunition, and baggage, and also Her Majesty's vessels and boats, and the officers and crews thereof being in such vessels and boats when actually engaged in Her Majesty's service, and for all officers of Her Majesty's Customs and all persons acting in their aid, and for all persons duly employed in the prevention of smuggling, and for all vessels and boats in the service of Her Majesty's Customs when engaged in Her Majesty's service or of the Trinity House of Deptford Strond, and for all persons in charge of Her Majesty's mail bags, and at all reasonable times to land and embark at, on, and from, and to use the said pier and works without being subject or liable to the payment of any of the tolls hereby imposed in respect of the said pier; and no pier master to be appointed under the authority of this Act or otherwise shall have any control over any of Her Majesty's vessels or boats, their officers or crews. Provided always, that if any person shall claim and take the benefit of any exemption as aforesaid without being entitled thereto, every such person shall for every such offence forfeit and pay the sum of 40*s.* over and above the tolls imposed by this Act. 9 & 10 Vict., c. 108, sec. 38. (L. & P.)

6. *Hilsea Lines.*

On 26th June 1846 "The Direct London and Portsmouth Railway Act, 1845," (9 & 10 Vict., c. 83, L. & P.); and on the 27th July 1846 "The Guildford Extension and Portsmouth and Fareham Railway Act, 1845 (*ib.*, c. 252, L. & P.), were passed, and contains these sections:—

ict, . 28. .)

Company r to enter up Crown lanc without co sent of Boa of Ordnanc

And whereas it is indispensably necessary that the fortifications and defences at or near Portsmouth and Portsea should be preserved from injury, and that the same should be in no respect affected by the said proposed railway; be it therefore enacted, that nothing in this Act contained shall authorise the said Company to construct or carry the said railway across the Hilsea Lines, or to enter upon or possess or occupy any land or other property belonging to Her Majesty in the parishes of Widley, Wymering, and Portsea, or any or either of them, without the consent in writing of the principal officers of Her Majesty's Ordnance first given to the said company for the purpose; [and in case such consent in writing shall be so given, the said company shall hold and occupy the said land and property mentioned therein as tenants only, under and at a yearly rent, to be fixed by the said Principal Officers, and the term, estate, or interest of the said company therein to be determinable by the said Principal Officers at any time as and when the public service shall in their opinion require the same, unless the said Principal Officers shall by some other writing or deed otherwise grant, convey, or assure such land and property].[1]

If consent granted, th company t hold the la as tenants a a rent.

. 29.

Works exe cuted upon Crown Pro perty to be approved b Board of Ordnance.

And be it enacted, that, notwithstanding anything in this Act contained, it shall not be lawful for the company to construct any erection or work of any kind whatsoever upon any land belonging to Her Majesty in the parishes of Widley, Wymering, and Portsea aforesaid, or either of them, until after a plan and specification thereof shall have been submitted to the Principal Officers of Her Majesty's Ordnance, or their successors, and their approval thereof shall have been signified in writing under the hand of the Secretary of the said Principal Officers for the time being.

. 30.

Board of Ordnance empowered to alter ex isting fortif cations, and add new on or destroy railway wor for the pur poses of de fence, withc making goo the damage

And be it enacted, that, notwithstanding anything in this Act contained for the taking of any of the lands of Her Majesty for the purposes thereof, it shall be lawful for the said Principal Officers of Her Majesty's Ordnance, and their successors, servants, and agents, from time to time and at all times hereafter, as and when they shall see occasion for the public service, and without making any compensation to the company, to construct upon any of the said lands any works of defence whatsoever, and to add to and improve or alter any of the existing works of defence, and also upon any such occasion, and for the purpose of defence, to remove in a summary way, and if need be to destroy, all or any portion of the railway and works hereby authorised to be constructed, without being

[1] The part in brackets is not in the Guildford Extension Act, where the sections are numbered 33, 34, 35, and 36.

required or in any manner legally or otherwise liable to make good the loss or damage to be occasioned by such removal or destruction, or any part thereof.

Company to execute such work as the Board of Ordnance may require, to prevent prejudice to the fortifications.

And be it enacted, that, simultaneously with the construction of the railway and works hereby authorised, the said company shall construct, or, at the option of the said Principal Officers of Her Majesty's Ordnance, shall defray the expenses of constructing, all such works as shall be deemed necessary by the Commanding Royal Engineer at Portsmouth or in the district, for the purpose of making good the defences of the Lines which may be masked or in any manner interfered with by the works of the railway, or in its approach to and passage through the fortifications at Hilsea and Portsea aforesaid; and all such works as shall be constructed for the purposes last aforesaid shall be under the superintendence of the said Commanding Royal Engineer, and shall be executed to his satisfaction. upon plans and sections which shall have been previously approved by him in writing under his hand; and in case the same shall, by reason of the exercise of the aforesaid option, be executed by parties other than the said company, then a certificate of the expense thereof, under the hand of the said Commanding Royal Engineer, shall be conclusive evidence of the amount of such expense, and the same shall be paid by the company accordingly. 9 & 10 c. 83, s

7. *Portcreek Viaduct.*

The 8 and 9 Vict., c. 199 (L. and P.), being an Act for making a railway from the Brighton and Chichester Railway to Portsmouth with a branch to Fareham, has these special provisions in it relating to lands in Widley, Wymering, and Portsea.

Company not to enter upon certain Crown land without consent of Board of Ordnance,

And whereas it is indispensably necessary that the fortifications and defences at or near Portsmouth and Portsea should be preserved from injury, and that the same should be in no respect affected by the said proposed railway; be it therefore enacted, that nothing in this Act contained shall authorize the said company to construct or carry the said railway across the Hilsea Lines, or to enter upon or possess or occupy any land or other property belonging to Her Majesty in the parishes of Widley, Wymering, and Portsea, or any or either of them, without the consent in writing of the principal officers of Her Majesty's Ordnance first given to the said company for the purpose; and in case such consent in writing shall be so given, the said company shall hold and occupy the said land and property mentioned therein as tenants only, under and at a yearly rent to be fixed by the said principal officers, and the term, estate, or interest of the said company therein to be determinable by the said principal officers at any time as and when the public service shall in their opinion require the same, unless the said principal officers shall by some other writing or deed otherwise grant, convey, or assure such land and property. 8 & 9 V c. 199, s (L. &

If consent granted, Company to hold such land as tenants at a yearly rent.

ict., . 20. And be it enacted, that, notwithstanding anything in this Act contained, it shall not be lawful for the company to construct any erection or work of any kind whatsoever upon any land belonging to Her Majesty in the parishes of Widley, Wymering, and Portsea aforesaid, or either of them, until after a plan and specification thereof shall have been submitted to the principal officers of Her Majesty's Ordnance, or their successors, and their approval thereof shall have been signified in writing under the hand of the Secretary of the said principal officers for the time being.

No works be execute upon the Ordnance property except up a plan approved by Board of Ordnance.

. 21. And be it enacted, that, notwithstanding any thing in this Act contained, or the taking of any of the lands of Her Majesty for the purposes thereof, it shall be lawful for the said principal officers of Her Majesty's Ordnance, and their successors, servants, and agents, from time to time and at all times hereafter, as and when they shall see occasion for the public service, and without making any compensation to the company, to construct upon any of the said lands and works of defence whatsoever, and to add to and improve or alter any of the existing works of defence, and also upon any such occasion, and for the purpose of defence, to remove in a summary way, and if need be to destroy, all or any portion of the railway and works hereby authorised to be constructed, without being required or in any manner, legally or otherwise, liable to make good the loss or damage to be occasioned by such removal or destruction or any part thereof.[1]

Board of Ordnance may alter isting fort cations an add new o or destroy railway an works for purposes o defence.

. 22. And be it enacted, that, simultaneously with the construction of the railway and works hereby authorised, the said company shall construct, or at the option of the said principal officers of Her Majesty's Ordnance shall defray the expense of constructing, all such works as shall be deemed necessary by the Commanding Royal Engineer at Portsmouth, or in the district, for the purpose of making good the defences of the lines which may be masked or in any manner interfered with by the works of the railway, or in its approach to and passage through the fortifications at Hilsea and Portsea aforesaid; and all such works as shall be constructed for the purpose last aforesaid shall be under the superintendence of the said Commanding

Company execute su works as t Board of Ordnance may requi to prevent prejudice the fortifi tions.

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[1] NOTE.—In December 1868 the construction of this Section came under the consideration of the Law Officers, when they wrote as follows:— I., p. 2.

We are of opinion that the powers which the Secretary of State for War is authorised to exercise by the 21st section of the 8 & 9 Vict., c. 199, for the "purposes of defence," are not to be limited, as contended for on behalf of the Company, to the case of active hostilities existing or being imminent, and that there is no foundation for the distinction taken between "defence" and "works of defence." But we think that the power given by the 22nd section of the Act to require the construction of works by the Company is limited to the time of the original construction of their railway.

It follows, that although the Secretary of State for War cannot now directly compel the construction of any specific works by the company, he can compel it indirectly by destroying any works which he deems incompatible with the purposes of defence. We are therefore disposed to advise that he cannot be called upon to pay for any works which may be rendered necessary by such destruction, but that if he deems it beneficial or desirable that works shall be constructed beyond such necessity, it would not be unreasonable that he should contribute to their expense.

Royal Engineer, and shall be executed to his satisfaction upon plans and sections which shall have been previously approved by him in writing under his hand; and in case the same shall by reason of the exercise of the aforesaid option be executed by parties other than the said company, then a certificate of the expense thereof, under the hand of the said Commanding Royal Engineer, shall be conclusive evidence of the amount of such expense, and the same shall be paid by the company accordingly.

8. *Paving Commissioners (Portsmouth).*

Who to be deemed occupiers of premises belonging to the Ordnance and the Gaol.

On 27th July 1847, an Act for paving, &c., this town was passed (10 & 11 Vict., c. 257, L. & P.) which enacted, that for the purposes of this Act the Storekeeper of Her Majesty's Ordnance at Portsmouth for the time being shall be deemed the occupier of all houses, lands, and hereditaments in the said town which are or may be under the charge of the Master-General or Principal Officers of Her Majesty's Ordnance for the time being; and that it shall be lawful for the said Commissioners, in the rates or assessments so to be from time to time made by them as aforesaid, to rate and assess the Storekeeper of Her Majesty's Ordnance at Portsmouth for the time being, as the occupier of the respective premises of which they are hereby declared to be the occupiers respectively, according to the respective annual values thereof, and the sums so to be assessed upon them respectively as such occupiers shall and may be levied and recovered of them respectively in like manner as the rates or assessments herein authorised to be levied and recovered of any occupier of lands or houses within the limits of this Act, and be allowed to them respectively in their respective accounts as such Storekeepers respectively.

10 & 11 Vict., c. 257, sec. 34. (L. & P.)

Saving rights of Crown and Admiralty.

And be it enacted, that nothing in this Act contained shall extend or be construed to extend to defeat, lessen, prejudice, derogate from, or affect any estate, right, title, interest, franchise, prerogative, jurisdiction, or authority of the Principal Officers of Her Majesty's Ordnance.

Ibid, sec. 57.

9. *Stokes Bay Railway*

Railway over Ordnance lands to be upon viaduct.

On the 14th August 1855 "The Stokes Bay Railway and Pier Act, 1855" was passed, which enacts:—

That in carrying the said railway over the lands belonging to Her Majesty's Ordnance, the same shall be constructed upon a timber viaduct, and in accordance with a plan and section thereof, to be approved by the engineer for the time being of Her Majesty's said Board of Ordnance.

18 & 19 Vict., c. 192, sec. 22. (L. & P.)

10. *Exemption from Rates.*[1]

On 13th July 1857 "The Landport and Southsea Improvement Act, 1857," 20 and 21 Vict., c. 37, was passed, and contains this exemption from local rates:—

[1] See p. 35 *ante (note.)*

Vict., c. 47. P.)

No rate or assessment shall be made, levied, or collected by virtue of this Act, upon or in respect of any ramparts and walls belonging to or forming part of any fortifications within the limits of this Act, or in respect of any of the ditches or ground kept in an unproductive state in connection with such fortifications, or upon any custom house or other buildings or premises used by or for the use of the Crown in the service of the Customs.[1] Certain buildings exempted from rate

11. *Colewort Barracks.*

Vict., 1.

The ground on which these barracks are erected was subject to rights of way for foot passengers from a point near the Landport Gate, and also from Warblington Street, at a point opposite Nobb's Lane to Armoury Lane, but by the 23 and 24 Vict., c. 49, it was enacted that from and after the 23rd July 1860, all rights of way through or over the said ground shall cease, and the said Secretary of State shall stop up or cause to be stopped up the said ways, and thereupon public notice shall be given of the stopping up thereof by advertisement in the "London Gazette," and in some local newspaper published or circulated in the county of Southampton, and shall be affixed on the outer door of the Town Hall or some other public place within the said borough. Rights of Way thr Colewort Barracks tinguishe

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[1] This case arose in the Court of Queen's Bench, on 28th May 1864, as follows:—

"*The Queen* v. *The War Department and Meade, Barrack-Master of Southsea.*

"The question here arose as to the right of the Southsea Improvement Commissioners to rate Mr. Meade, the barrack-master of a fort at Southsea. The fort is on the sea, about three miles from Portsmouth, and it is a fort for defence of the realm, guarding one of the main entrances to the harbour of Spithead. The Improvement Act gives express power to rate the Royal Marine barrack-master as occupier of all houses and lands within the limits of the Act, which are, or may be, appropriated to the use of the Royal Marine or Marine Artillery, and there was only an exemption of 'any ramparts and walls belonging to or forming part of any fortifications within the limits of the Act, or in respect of any of the ditches or grounds kept in an unproductive state, in connection with such fortifications.' The Commissioners had rated the barrack-master, who had appealed to the Recorder of Portsmouth, Mr. J. D. Coleridge, Q.C., who reserved a case for the opinion of this Court.

"Mr. M. Smith, Q.C. (with him Mr. Younge), argued in support of the rate; Mr. Phinn, Q.C. (with him Mr. Poulden and Mr. C. B. Russell), argued against it.

"The Court were clear that it was valid.

"The Lord Chief Justice remarked, in giving judgment, that it was rather novel to hear of such forts being rateable, but the words of the Act were such as to give the power of rating this fort, and the exemption clause was so drawn as not to embrace it; for, though ramparts and walls might be parts of a fort, a fort could hardly be called mere ramparts and walls; the ramparts and walls were mere accessories.

"Mr. Justice Crompton and Mr. Justice Shee concurred.

"Rate affirmed.

"It should be stated that Mr. Justice Blackburn had left the Court in the middle of the day to sit elsewhere, and he was not present during the argument of the latter case."

12. *Portsdown Fair.*

On passing of this Act Portsdown Fair, and the right to receive tolls, to cease.

This was held under a Charter of the 29th June 1716, for selling cattle and merchandise annually in the month of July, on certain land within the manor of Widley, in the county of Southampton. This land was purchased by the Secretary of State for the construction of works authorised by the Defence Act, 1860. Accordingly, by the 25 and 26 Vict., c. 34, it was enacted that from and after the 7th July 1862, the fair called Portsdown Fair, held under the said Charter in the manor of Widley, in the county of Southampton, for the selling of all and all manner of beasts and cattle, and of all manner of goods, wares, and merchandises commonly in fairs bought and sold, and the franchise of holding the same and of receiving tolls in respect thereof, shall absolutely cease, and no persons shall have any right to resort to or continue on the land on which the same fair has hitherto been held for any purpose connected with the said fair or in pursuance of any charter, custom, or right relating to such fair. 25 & 26 c. 34.

13. *Joint (Portsmouth) Railways.*

On the 7th July 1873, "The Joint Portsmouth Extension Act, 1873" was passed for the construction of two railways:

Railway No. 1. A railway one mile, six chains, and fifty links in length, commencing in the parish of Portsea by a junction with the joint line near the Portsmouth terminus thereof near the north end of Blackfriars Road, passing thence through or over the glacis and the old fortifications, and through or over the Old Gun Wharf of Her Majesty's War Department, and thence by means of a pier or viaduct over or upon the foreshore and across the Albert Pier, and terminating on the said foreshore at a point about five chains south of the Common Hard, near the western end thereof. 36 & 37 c. 118, s (L. &

Railway No. 2. A railway about twenty-one chains and eighty links in length, commencing by a junction with railway No. 1 at the west side of the Royal Albert Pier, and terminating at the south-western corner of Watering Island Jetty.

The Act contains these special provisions relating to the War Department:

Providing for lines within Crown lands.

Notwithstanding anything contained in the deposited plans and sections, the two companies shall construct the railways and works westward of the fifth furlong marked on the deposited plans only in conformity with the amended plans agreed to by the War Department and the Admiralty; and the two companies shall not enter upon, take, or use any lands for the purposes of this Act, or execute any works under the authority of this Act, until they shall have deposited a copy of the said plans with sections thereto, authenticated respectively by the seals of the two companies, with the Town Clerk of the borough of Portsmouth, and with the Clerk of the Peace for the county of Southampton, and the plans and sections so to be deposited are hereinafter referred to as the amended plans. *Ibid*, sec

36 & 37 Vict., c. 118, s. 6. If in the execution of the powers of this Act the two companies shall interfere with buildings belonging to the War Department, they shall, upon land to be provided by the same department, erect with all convenient speed, and to the reasonable satisfaction of the said department, other buildings in the stead of those so interfered with, and if the two companies shall neglect to erect such buildings the same may be constructed by the said department, and the reasonable cost thereof, as certified by the proper officer of the said department, may be recovered from the two companies, or either of them, as a debt due to the Crown. Providing for works for War Department.

Ibid, sec. 7. The two companies shall also construct and maintain upon land to be provided by the War Department, and in such direction as the said department shall prescribe, a siding or branch railway from the railway No. 1, shown on the amended plans, into the lands marked upon the said plans as "Old Gun Wharf." Providing for branch to Gun Wharf.

Ibid, sec. 8. The two companies shall not, except with the consent of the Lords Commissioners of the Admiralty, open for public traffic the railway No. 1 hereby authorised until they shall have completed to the satisfaction of the said Commissioners and of the War Department the railway No. 2. And the two companies shall at all reasonable times when required by the Lords Commissioners convey over the railway No. 2, and over any tramways or railways belonging to the Lords Commissioners adapted to the engines and trains of the company, into and from the dockyard or any part thereof, all traffic destined to or coming from the said dockyard, at such rates and fares as shall from time to time be agreed on between the said Lords Commissioners and the company. For securing completion of railway No. 2.

Ibid, sec. 9. Subject to the provisions hereinafter contained, the two companies may construct and maintain in connection with the railways all such landing-places, stages, pontoons, sheds, buildings, roadways, and other works as may be necessary for the comfort and security of passengers, and for the safe landing and delivery of goods, animals, and minerals. Providing for landing stages.

Ibid, sec. 13. The embankment of the railway across the portion of the glacis intended to be devoted to a people's park, being No. 10 on the deposited plans in the parish of Portsea, shall be planted with ornamental shrubs and so kept up, and shall have two arched openings therein of at least 20 feet upon each. Provisions as to planting embankment with shrubs, &c.

Ibid, sec. 15. The two companies shall cause to be constructed and maintained upon railway No. 2, at such point as may be approved by or on behalf of the Lords Commissioners of the Admiralty, an opening bridge, which shall when open leave a passage through the said railway of the clear width of 40 feet to provide a means of ingress and egress for vessels to and from the Watering Island, and the said bridge shall be under the control of the two companies, and when required to be closed for Government purposes shall be so closed and worked by them at the expense of the Lords of the Admiralty, at a rate to be agreed upon between them and the two companies. Providing for opening bridge on railway No. 2.

Tolls to be charged to Admiralty and War Department.

The tolls which the two companies shall charge to the Admiralty and War Department on the lines of railway hereby authorised shall not exceed the tolls authorised to be levied by the two companies on their existing lines of railway respectively. 36 & 37 c. 118, s

Agreements between Companies and War Office and Admiralty.

The two companies on the one hand. and Her Majesty's Principal Secretary of State for War and the Lords Commissioners of the Admiralty, severally, on the other hand, may from time to time enter into any contracts and agreements with respect to the construction, maintenance, working, and use of so much of the railways and works as may be constructed or maintained upon, across, or connecting lands, buildings, or other property which belong to or are vested in or are held by any person or persons in trust for Her Majesty, her heirs and successors, or which are under the control or supervision of the War Department or of the Admiralty respectively. *Ibid*, sec

Saving rights of Her Majesty's Principal Secretary of State for War Department.

Nothing in this Act contained shall authorise the two companies to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by Her Majesty's Principal Secretary of State for the War Department for the time being, without his previous consent signified in writing under his hand, and which consent the said Principal Secretary of State for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the two companies. *Ibid*, sec

Purfleet, Essex.

In the year 1759–60 the powder magazine was transferred from Greenwich to Purfleet under the provisions of the 33 Geo. II., c. 11. The Act, which is an ordinary Vesting Act, contains these special provisions:—

The mills at Purfleet to be taken down;

And whereas the mills, commonly called the Purfleet mills, by keeping back the fresh water, and admitting the salt water out of the Thames into the fleet or cut called Mar Ditch, have been found very detrimental to the adjacent lands, as well as to the health of the country in general, and may prove pernicious to the garrison intended for the guard of the said magazine; be it further enacted by the authority aforesaid, that as soon as the said Commissioners so to be appointed by virtue of this Act shall be in actual possession and seisin of the said mills, the Master-General of His Majesty's Ordnance for the time being, or the Lieutenant-General and principal Officers of His Majesty's Ordnance for the time being, or any three or more of them, shall effectually take down the said mills; and that no mills shall hereafter, on any account, be built, either at the mouth of the said fleet or cut called Mar Ditch, or in any other part thereof that shall, by virtue of this 33 Geo. c. 11, s.

Act, be vested in the said Commissioners before mentioned; but that the said fleet or cut shall be left free and open according to the directions hereinafter mentioned; any thing in this Act to the contrary thereof in anywise notwithstanding. and the Fleet to be left open.

II., c. 20. And be it further enacted by the authority aforesaid, that the Master-General of His Majesty's Ordnance for the time being, or the Lieutenant-General and principal officers of His Majesty's Ordnance for the time being, or any three or more of them, shall, when the said mills shall have been taken down, fix such proper flood-gates, not less than fourteen feet in width, to be laid at least three feet lower than the mill water-way now is, as shall effectually keep the sea water out of the said fleet, and permit the fresh water to go off with the ebb tides; and shall, from time to time, clear the silt from the mouth of the said fleet, and cause such other works to be erected, and such repairs to be made thereunto, as may be sufficient for the purpose aforesaid; any thing in this Act to the contrary thereof notwithstanding. Proper flood-gates to be erected to keep out the sea water, and permit the fresh water to go off with the ebb tides, &c.

21. And be it further enacted by the authority aforesaid, that the said fleet commonly called Mar Ditch, and all the works erected or to be erected thereon, shall still continue under the authority of the Commissioners of Sewers for the Levels of Avely and West Thurrock, to be preserved by them for the benefit of the country in the state they are directed to be by this Act; nevertheless, so as all the expenses of erecting and keeping in repair the said flood-gates, and other works, shall be borne and paid for out of the moneys granted or to be granted by Parliament for the service of the Ordnance; any thing herein contained to the contrary thereof notwithstanding. The Fleet to be under the Commissioners of Sewers for the Levels of Avely and W. Thurrock but the expenses of the repairs, &c., to be paid out of the moneys granted for the Ordnance Service.

The 49 Geo. III., c. 97, authorized an exchange of land at this station, with the Statutory provisions.

c. 84, p.) By "The London, Tilbury, and Southend Extension Railway Act, 1852," it was enacted that the companies therein-mentioned should and they were thereby required to make and for ever maintain a good and sufficient footbridge over the Ordnance Road at Purfleet, of such form and dimensions and at such part of the said road as should be required by the Master-General and Board of Ordnance, and should and would permit the same to be used and enjoyed by John Henry Pelly, his heirs, and assigns, and his and their servants, workmen, and others, and the tenants and occupiers for the time being of Fann's Farm. Footbridge to be maintained over Ordnance Road.

46. It was further enacted that the line of railway should not, without the previous consent in writing of the Master-General of the Board of Ordnance, come within 600 yards of the central magazine of the Ordnance Establishment at Purfleet; and that during the passage across the said railway of artillery, troops, ammunition, or convoys of Government stores, the trains on the line shall be stopped; and for the purpose of preventing any delay to such passage across the said railway the said company should erect and for ever maintain all signals which may be requisite for that purpose, to the satisfaction of the Master-General and Board of Ordnance. Prescribing distance of railway from magazines at Purfleet.

The Royal Military Canal and Road.

In 1807 an Act, 47 Geo. III. (Sess. 2), cap. 70, was passed for maintaining and preserving a Military Canal and Road from Shorncliff in the county of Kent to Cliff End in the county of Sussex, and by the Schedule all the lands required for the undertaking were vested in certain Parliamentary Trustees, who were also made Commissioners for "carrying on, completing, maintaining, regulating, and managing the Canal and Road."

Long after the canal and road were made, viz., in 1837, the whole undertaking was transferred by the 1 Vict., cap. 20, to the Board of Ordnance, in trust "for the Public Service," with all the powers which the original Act contained, and subject also to all the ordinary statutory powers held by the Ordnance Board with reference to other Ordnance property.

In 1867 "The Royal Military Canal Act, 1867,"[1] was passed, and amended in 1872 for authorising a sale or lease of the canal and its collateral works. Sec. 3 empowered the Secretary of State at any time, or from time to time, to sell and convey or demise, in such manner, on such terms, and subject to such conditions, reservations, and provisions as he thinks fit, to any persons or body of persons willing and competent to purchase or take a demise of the same, all or any part or parts of the canal called the Royal Military Canal, extending from Shorncliff in the county of Kent to Cliff End in the county of Sussex, and of the military road and towing-path, and other works connected therewith, and of the lands, buildings, rights, easements, and appurtenances held or enjoyed therewith or for the purposes thereof.

Power to sell or demise canal and collateral works.

Under the provisions of this Act two leases have been executed dated the 24th May 1877—one to the Corporation of Hythe and the other to the Lords, Bailiffs, and Jurats of Romney Marsh, of the channel of the canal and the towing-path from the outlet at Seabrook to a point marked S (280 yards to the west of the Staff Bridge), by the first lease, and from this point S to the Royal Military Lock in the River Rother by the other lease.

The Act so far as it relates to the military road is in substance as follows:—

Secretary of State may make rules and regulations;

The Secretary of State may make such rules and regulations and from time to time alter the same, either as to the opening the said road for public use, or shutting up the same, or as to the periods, times, and manner in which, and the terms, conditions, or restrictions, under which the same may be used by the public, so as that the use of such military road by the public for general purposes, shall not injure the same as military work; and that the same military road, and the use thereof, shall remain under the control of such Secretary of State for the protection of the same for military purposes. 47 Geo. (Sess. 2) sec. 2.

and may take rates and tolls.

The Secretary of State may demand and take, or authorise the taking and demanding of tolls for the passing of carriages, *Ibid.*, se

[1] 30 & 31 Vict., cap. 140, and 35 & 36 Vict., cap. 66.

cattle, or persons, along and upon the said road, or over any bridge crossing the canal, which may be erected and made, and may fix the places and times for taking such rates and tolls, and the circumstances under which the same shall be demanded or levied, and from time to time increase or diminish, or vary or alter any of such rates or tolls, or alter the places or times at which, or make other regulations as to the circumstance and manner in which the same may be taken, as to the said Secretary of State shall in the first instance, and from time to time, for ever thereafter, seem fit: provided always that no rate or toll shall at any time be demanded, levied, collected, or taken upon, or for the passing over any of the bridges erected or built across the said canal: provided also, that tables of all such rates and tolls as shall, from time to time, be fixed by the said Secretary of State, shall be made out and put up in conspicuous places, painted on boards, at the ends of the road, at the several places where any such rates and tolls shall be demandable; and tables of all such rates and tolls, or any alteration therein, shall be laid before both Houses of Parliament.

3, c. 70. No toll gate shall be erected or any tolls taken upon that part of the military road lying between the two bridges at Hythe, heretofore commonly called Ashford Road, or upon that part of the said military road opposite to Appledore, on the towing path side lying between the river wall and Appledore bridge, now become the road from Romney to Tenterden. Ashford R and Apple not to be subject to

. 5. Where any parts of the military road shall be allowed by the said Secretary of State to be used by the owners or occupiers of any lands, for the occupation of such lands, then and in such case no tolls shall be payable by any such owner or occupier for or in respect of the use of such road solely for the cultivation or carrying away the produce or the occupation of such lands. Owners or occupiers lands thro which the military r &c., pass, i what cases exempted from toll.

. 6. The said Secretary of State may at any time farm the rates and tolls so established and fixed under the authority of this Act, or any or either of them, or such of them as may be demandable at any particular places, and in such manner, and under such regulations or restrictions as he shall think necessary, unto any person or persons for any time or term as he shall think proper, not exceeding three years; and the lessee or lessees thereof, and also such person or persons as the said lessee or lessees shall appoint to collect and receive the rates and tolls so let, shall, during the continuance of every such lease, be deemed collectors of the rates and tolls so let, and shall have the same power and authority for collecting and recovering the same as if he or they had been appointed for that purpose by the said Secretary of State; provided that public notice of the intention to let the said rates, or any part thereof, be given in some newspaper published or usually circulated in the counties of Kent and Sussex, at least 21 days before the holding of the meeting at which such rates or tolls are proposed to be let. Commissioners ma farm the t

Erection of turnpikes.

The Secretary of State may cause such turnpike gates to be erected on the said military road, and at such places, except on such parts of the said military road as are hereinbefore excepted, as to him shall seem meet, and appoint proper persons for the collection of the tolls which may be made payable for the passage of carriages and horses and cattle thereon. 47 Geo. (Sess. 2) sec. 9.

Penalty for fraudulently claiming a right to carry articles at a lower rate.

It any person or persons shall fraudulently, and with intent to evade the payment of any rates or tolls, claim any privilege or exemption in relation to the using or disposing of any articles made liable by the said Secretary of State to the payment of any lower rates or tolls than are actually payable in respect of such articles, every such person or persons so offending shall for every such offence forfeit and pay any sum not exceeding *5l.*, nor less than *40s.* *Ibid*, sec

Recovery of rates and tolls.

The rates and tolls authorised to be taken on the said road, shall be paid to such person or persons at such place or places upon or near the said road, and in such manner, and under such regulations, as the said Secretary of State shall in that behalf direct or appoint; and in case of neglect or refusal to pay any such rates or tolls, or any part thereof, unto any person or persons who shall be appointed to receive the same as aforesaid, it shall be lawful for the said Secretary of State to sue for and recover the same by action of debt, or on the case, in any of His Majesty's Courts of Record at Westminster; or it shall be lawful for the person or persons to whom such rates or duties ought to have been paid, and he and they is and are hereby fully authorised and empowered to seize and distrain any carriage, or horse or horses, or cattle, for or in respect of which any such rates or tolls ought to be paid as aforesaid, and to detain the same respectively until full payment shall be made of such rates or tolls, together with the reasonable costs and charges of such distress; and in case such distress shall not be redeemed within five days after the taking thereof, the same shall and may be appraised and sold as the law directs in case of distresses for rent. *Ibid*, sec

Penalty for throwing dirt into the canal or works.

If any person or persons shall throw, cast, or put any earth, dirt, ashes, stones, or other things, into or upon any part of the said road, or shall leave any wagon, cart, carriage, or other obstruction upon the said military road, shall forfeit, for every such offence, any sum not exceeding *5l.* *Ibid*, sec.

Punishing persons setting fire to or damaging works.

If any person or persons whatsoever shall wilfully and maliciously set on fire any of the works belonging to the said road, or any of the materials intended for any of the said works, every such person or persons so offending in any of the cases aforesaid, shall be adjudged guilty of felony, and every such felon shall be subject to the like pains and penalties as in cases of felony, without benefit of clergy; and if any person or persons shall knowingly, wilfully, or maliciously demolish, break down, cut, or destroy any part of the said road, or other works or things belonging thereto, then every such offender or offenders, being convicted thereof, shall suffer punishment by fine, imprisonment, or transportation, at the discretion of the *Ibid*, sec.

judge or judges before whom such offender or offenders shall be tried and convicted.

3, c. 70, The said Secretary of State shall, at the public expense, divide and separate, and keep constantly divided and separated, the military road from the adjoining lands or grounds, by sufficient posts and rails, hedges, ditches, trenches, banks, or other fences, sufficient to keep off cattle, the same to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in the said Secretary of State as aforesaid, and shall hereafter keep up and maintain such fences in a good and proper condition, sufficient to keep off cattle from the works. Fences to be made to separate the canal from private grounds.

29. No owner or occupier of land, nor any other person, shall remove any of the palings, posts, or rails to make a way into their field, even if the same shall be replaced again, or place any gates in the fence on the side of the said military road, or remove any posts, rails, or paling, in order to their passing, although such posts, rails, or paling may be thereafter replaced, except with the leave of and at such places as may be fixed upon by such Secretary of State, or any officer appointed by him, having authority to ascertain such places, under pain of forfeiting for every such offence any sum not exceedidg 5*l*. Not to make bridges over any cuts or drains.

30. The lands taken for the said road, or any buildings or works belonging thereto, shall remain subject, liable to, and chargeable with such and the like rates and charges for any wall and water scotts or other charges, for supporting Dimchurch Wall, or other sea walls in Romney Marsh, as such lands were subject and liable to and chargeable with before the taking thereof; and all such rates, when made upon any such lands, shall be payable and paid out of the rates and tolls levied upon the said road before any other payment or charge whatever which may hereafter be made or become payable out of such rates or tolls; or if no such rates or tolls shall be raised, or the same shall not be sufficient, the same shall be laid before the Commons House of Parliament, in order that provision may be made for the payment thereof. Lands liable to former payments.

31. When any part of any lands, buildings, tenements, or hereditaments, charged with any land tax in an assessment, shall have been taken for the purpose of the said road, the Commissioners of land tax shall apportion the same (subject to appeal as in case of any assessment of land tax); and all land tax so apportioned, and also all the land tax which shall at the time of any lands, houses, tenements, or hereditaments, being taken for the said road have been charged and assessed thereon, shall be entered as exonerated in the assessment of the parish or place in which the same shall be. Land tax to be apportioned.

32. The said road and all buildings, houses, works, lands, premises, tenements, or hereditaments, making part of or belonging or appertaining to the same, and all rates and tolls which may be levied or taken upon the said road, shall be wholly exempt from any parochial rate or charge for the relief of the poor or otherwise. Canal to be exempted from poor rates.

Officers not to be exempted from poor rates.

Nothing herein contained shall exempt any persons having or enjoying any beneficial occupation of any such house, building, or lands, other than and beyond such as may be necessary for the purpose only of executing any office, or performing any duty as a clerk or officer under the said Commissioners, from being rated to the relief of the poor of the place in which he shall have such beneficial occupation, in respect of such beneficial occupation. 47 Geo. (Sess. 2 sec. 33.

Jurisdiction.

The said road shall not be under the control, direction, survey, or order of the Lords of Romney Marsh, or the Commissioners of Sewers of any of the levels through which the said canal passes, or under any other control than that of the said Secretary of State under this Act.[1] *Ibid*, se

Under "The Brighton, Lewes, and Hastings Railway Act, Hastings, Rye, and Ashford Extension, 1845," the company therein referred to constructed and carried the line of the railway across the Royal Military Canal in Warehorn Parish, near No. 10 Station House there, whereupon this enactment came into force:— 8 & 9 c. 200. (L. & Dow 20

The said line of railway shall be constructed and carried and be for ever thereafter maintained by the said company in such manner and form in all respects as in the opinion of the said Secretary of State (such opinion to be expressed by writing under his hand) shall be proper and necessary to prevent any obstruction to or delay in the free navigation of the said canal and the traffic on the said towing paths and road; and the said company shall not construct or carry the said line of railway in any other manner than shall be expressed and directed by such opinion in writing. *Ibid*, se

Sandhurst,[2] *The Royal Military College.*

The first Act relating to this estate is the 52 Geo. III., cap. 124, which was passed to effect two objects: 1st. To vest two parcels of waste land (which are described in the Act) in His Majesty, his heirs and successors for ever, freed and absolutely exonerated from all manner of Commonable Rights and other rights whatsoever; and, 2ndly, to divert and stop a road (described on the plan annexed to the Justice's order of the 11th November 1811) running through and dissecting these two parcels of land, and so near to the Royal Military College as to be a great inconvenience.

When the new road is certified by the Justices to be in good repair, the old road shall be stopped up and the soil vested in His Majesty.

To effect this latter object, the 7th Section enacted that when and so soon as the Justices of the Peace should have certified that the new road proposed to be substituted and used should have been made and put into good repair, the old road be from thenceforth for ever stopped up and no longer used as a road, and the soil of so much thereof as ran through the said two 52 Geo c. 124,

[1] The Act contains the usual sections for the recovery of penalties, which are not thought of sufficient importance to print here.

[2] As to the history, vol. ii., p. 450.

parcels of land, or any other of the lands of His Majesty, be and the same was thereby vested in His Majesty, His heirs and successors.

Geo. III, 124, sec. 8.

By whom the new road shall be kept in repair.

By the 8th section it was enacted that His Majesty, His heirs and successors, in respect of the farm called Lodges Farm, or the owner or owners thereof for the time being, should for ever thereafter, at his and their own costs and charges, amend and repair the said new road to the extent of 1,287 yards, to be computed from the turnpike gate across the south end of the said new road, according to and as mentioned in the said order of the said Justices, together with any bridge or bridges that might thereafter be erected on or across the said new road.

and 26 t., c. 33, amble.

In or prior to the 7th July 1862, some parts of the lands belonging to the College, and situate in the parish of Sandhurst in the county of Berks, and the parish of Ash in the county of Surrey, were vested in Her Majesty, and other parts thereof were, on the acquisition thereof for the purposes of the College, conveyed in trust for Her Majesty to certain of the Commissioners of the College, or otherwise to persons having no corporate capacity, and had devolved upon the heir-at-law of the person to whom such lands were conveyed, or of the last survivor of such persons (where more than one), and it was impossible or difficult to ascertain who was such heir-at-law in each case. . . . . A map or plan of all the lands was then made and signed in duplicate by the Governor of the College and by one of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, and upon such map or plan were distinguished by a red edging the lands then holden by or belonging to the College, and by a yellow edging the lands then holden by or belonging to the Crown, respectively: And one of the duplicates of the map or plan was deposited with Her Majesty's Principal Secretary of State for the War Department, and the other duplicate deposited in the Office of Land Revenue Records and Enrolments.

d, secs. t 2.

Upon passing of this Act Lands of the Royal Military College to vest in Secretary for War.

Certain Lands on passing of this Act to vest in the Crown.

The 25 and 26 Vict., cap. 33 enacts that the lands described or delineated on the said map or plan, and surrounded thereon by a red edging, shall be vested in Her Majesty's Principal Secretary of State for the War Department on behalf of Her Majesty for all the estate and interest now vested in Her Majesty, or any person or persons in trust for Her Majesty, subject nevertheless to the Royal Warrant of the 7th May 1808, or such other Royal Warrant (if any) as for the time being may be in force in relation thereto. And that the lands described or delineated on the said map or plan, and surrounded thereon by a yellow edging, shall be vested in Her Majesty, her heirs and successors, as part of the hereditary possessions of the Crown.

Sheerness and adjacent parishes.

{ 20 Geo. III., c. 38.
{ 21 Geo. III., c. 10.

1. *The Pier.*

In 1829 an Act (10 Geo. IV., c. 120) was passed for maintaining the pier at Sheerness by Commissioners, with statutory powers conferred by the Act, but it was provided that nothing in this Act contained shall extend to give the said Commissioners any jurisdiction over the dockyard or garrison of Sheerness, or over any land or premises belonging, or which may hereafter belong, to His Majesty, his heirs and successors, or be held on his or their behalf, and used for the service of the Government, but that all such land and premises shall be excluded from the limits of this Act; and the said Commissioners shall and they are hereby required within the space of three calendar months next after the passing of this Act to erect and place stones or posts at convenient distances from each other for the purpose of specifying and marking the said boundary, and shall replace and make good the same from time to time when and as the same shall be displaced or injured. 10 Geo. c. 120. (L. &

These other sections are contained in the Act:—

Exempting soldiers and sailors.

Provided always and be it further enacted, that nothing in this Act contained shall authorise or empower the said Commissioners to ask, demand, receive, or recover any rate, toll, or duty of, or from, or for, or in respect of any officer, soldier, or sailor, while on duty in His Majesty's service, who shall land from or embark in any such ship, hoy, packet, vessel, or boat so carrying passengers as aforesaid, nor for or in respect of any ordnance, barrack, commissariat, or other public stores of or belonging to His Majesty.

Exemption.

Provided always and be it further enacted, that notwithstanding anything in this Act contained, it shall and may be lawful to and for any officer, seaman, or other person belonging to any ship, vessel, boat, or other craft of His Majesty, or employed in his service, or any officer or person in any service of His Majesty in the said dockyard or garrison, or any naval, military, or marine officer or soldier freely to lade and unlade, take on board or discharge at any place within the said dockyard or garrison, or elsewhere, except at the said pier, any goods or chattels whatsoever on account of the public service, and also within the said dockyard or garrison any goods or chattels which shall be *bonâ fide* the property of or shipped by or consigned to the said officers or persons, and not being for the purpose of trade, dealing, or merchandize, without being subject or liable in respect thereof to any of the rates and duties imposed by this Act or to any penalty on account of the non-payment thereof; and no owner, master, commander, or other person having the rule, command, or government of any ship, vessel, boat, or other craft shall be liable to any penalty for delivering such goods or chattels to or taking the same on board from any person or person so exempted as aforesaid.

With reference to causeway or landing-place to be made by Sir Edward Banks, contiguous to the Royal Hotel, the Act provided that nothing therein contained give power or authority to Sir Edward Banks, his heirs or assigns, to make or erect any causeway or landing-place to a height exceeding one foot above the shore or beach without the consent in writing of the Principal Officers of His Majesty's Ordnance or of the Commanding Royal Engineer at Sheerness for the time being.

2. *The Railway.*

20 & 21 Vict., c. 151, sec. 48. (L. & P.)

On 17th August 1857 "The Sittingbourne and Sheerness Railway Act, 1857," passed, which enacted the usual protective clause and that all works in the parish of Minster within the limits of deviation shall be constructed upon such plans only as Her Majesty's Principal Secretary of State for the War Department for the time being shall by writing under his hand previously approve.

Plans to be approved by the Secretary of State for War.

Shoeburyness Ranges.[1]

Prior to the 17th July 1862 lands in the parish of Shoebury were acquired in fee-simple, and other lands in the parish of Wakering were acquired for a term of years by the Secretary of State to be used as a school of gunnery and the practice of artillery. The particulars of these lands are stated at the foot of this page, and are shown on a plan deposited with the Lords Commissioners of the Admiralty and in the War Office (registered F 137).

25 & 26 Vict., c. 36. Preamble.

It was alleged that a portion of the lands and premises, between high and low water mark, was subject to the rights of passage and anchorage of vessels in the water or sea flowing over the same, and at low water to certain other rights of grounding thereon: And that such alleged rights, if suffered to continue, would very much interfere with and impede the useful purposes intended to be effected by the acquistion of the lands and premises and by the establishment of the School of Gunnery, and would be highly detrimental to the public service; and that for these reasons it was expedient that the same should be forthwith partially extinguished, and the premises be kept free from all the anchorage or grounding of vessels, barges, and other craft.

The Artillery Ranges Act, 1862, therefore enacts:—

Id, sec. 1.

So long as the lands and premises shall remain vested in or be possessed by Her Majesty's Principal Secretary of State, he shall from time to time, as occasion may require, cause to be marked out and distinguished by buoys, or other sufficient marks to be erected or fixed upon the said lands and premises, such spaces or distances thereon as he may judge necessary to be kept free from all anchorage or grounding of vessels of

Spaces for the practice of artillery to be kept free and open, and to be marked by buoys, &c.

[1] 25 & 26 Vict., cap. 36, and see p. 15, 49 and 66 (notes).

any kind, and to order and direct that the several spaces or distances so marked out and distinguished shall be and remain as ranges for artillery practice, freed from all rights of anchorage or grounding thereon.

Rights of Anchorage and grounding to cease, and notice to be given to the Admiralty, and advertised in newspapers, and on church doors.

Whenever the said Principal Secretary shall have marked out and appropriated any spaces or distances for ranges as aforesaid, all rights (if any) of anchorage and grounding over or upon the same shall absolutely cease and determine, and a notification thereof shall be made to the Lords of the Admiralty, and be published in the London Gazette, and by advertisement in some morning newspaper and in some local newspaper circulated in the said county of Essex, and by affixing the same on the church doors of the said several parishes aforesaid. 25 & 26 c. 36, ss.

No vessel or person to pass over ranges marked out pursuant to this Act.

If any vessel, barge, or other craft, unless forced to remain thereon by stress of weather or other unavoidable accident, shall anchor or ground upon any range marked out in pursuance of this Act, then the owner or master of such vessel, barge, or other craft, as the case may be, shall on conviction thereof before any justice or justices of the peace forfeit and pay such a sum, not less than 40*s.* and not exceeding 5*l.* for every offence, as may be awarded against him, and such penalty, and also the reasonable costs attending the prosecution, shall be duly ascertained and awarded, and shall be enforced and recovered as any pecuniary penalties may be recovered under the provisions of 11 & 12 Vict., cap. 43. *Ibid.*, sec.

Penalty for offences to be recovered.

Saving rights of Lords and Ladies of the Manors of South Shoebury and Wakering.

Nothing in the Act contained shall be construed to prevent the entry of the Lords or Ladies of the Manors of South Shoebury and Wakering, their respective servants or agents, upon the beach or shore for the purpose of exercising their manorial or other rights thereon, and of recovering or removing therefrom all wrecks of the sea, jetsam, flotsam, and lagan goods, merchandise, or effects whatsoever, or from exercising any other rights reserved to the Lords or Ladies or either of them in and by any lease or leases granted by or on behalf of them or either of them, or by any conveyance or assurance to the Secretary of State for the War Department: Provided always, that no part of the lands lying east and north of the line marked A, B, and C, on the said map or plan shall ever be appropriated for any range under the provisions of the Act; and that nothing herein contained shall be deemed to repeal or alter any enactments relating to wreck, jetsam, flotsam, or derelict contained in the Merchant Shipping Act, 1854, or in any Act amending the same.[1] *Ibid.*, sec.

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[1] NOTE.—The Schedule to the Act thus describes the powers:—

All the land and foreshore situate between high and low water mark in the parishes of North and South Shoebury and Wakering, in the county of Essex, being the south-western part of certain lands called the Maplin Sands, and lying in front of and abutting in part upon lands belonging to Her Majesty's Principal Secretary of State for the War Department, in other part upon lands belonging to the Lord of the Manor of Shoebury, in other part upon lands belonging to G. A. W. Welsh, Esq., and in other part upon lands belonging to Sir John Tyssen Tyrell, Bart., which said lands and foreshore are shown and delineated on the map or plan made thereof and deposited with the Lords Commissioners of the Admiralty by the colours red,

Shoreham.

On the 11th August 1876 "The New Shoreham Act, 1876," passed, in which this provision is enacted:—

Vict., c. 9. P.) Whereas a battery has been erected for the protection of Shoreham Harbour, and is vested in Her Majesty's Principal Secretary of State for the War Department for the public service, the fire from the guns of which should be preserved free from all intrusion or obstruction: Be it therefore enacted, that nothing in this Act contained shall authorise the trustees to build any structure of any kind other than the piers shown upon the deposited plans that will mask or interfere with the fire of the guns from the battery aforesaid towards the sea, or to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, vested in or exercised by the said Principal Secretary for the time being, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being, without his previous consent signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the said trustees.

Saving rigl of Her Majesty's Principal Secretary (State for tl War Depa ment.

Shorncliffe Camp.

{ *34 Geo. III., c. 76.
37 Geo. III., c. 66.
38 Geo. III., c. 34.

Sunderland Docks.

On 14th May 1846, the Royal Assent was given to the 9 Vict., c. 13 (L. & P.), an Act for constructing these docks and other works on the River Wear. Section 78 exempts War Department vessels from the operation of the Act in the usual form, and sections 147 and 148 are in these words:—

c. 13, P.) And whereas in the construction of the said dock and other works the company will take the battery, fort, and buildings connected therewith, situate at the said fort, belonging to Her Majesty; be it enacted, that, as a condition for putting into execution the powers of this Act as affecting the said battery, fort, and buildings, the company shall, if required by or on

Company t provide a suitable sit for the ere tion of a n battery, &c

black, green, and brown respectively; the lands coloured red having been purchased by and being now vested in the said Principal Secretary and his successors in fee; the lands coloured black being held by the said Principal Secretary under a lease bearing date the 1st of March 1862, for the term of 40 years from the 25th of March 1852; the lands coloured green being held by the said Principal Secretary under a lease bearing date the 5th of May 1860, for the term of 31 years from the 5th of April 1860; and the lands coloured brown being held by the said Principal Secretary under a lease bearing date the 13th of September 1854, for the term of 50 years from the 25th of March 1851.

aehalf of Her Majesty's Board of Ordnance, within three months after the completion of the said docks and other works, and at bll events within three years from the passing of this Act, at their own expense, provide another suitable site for the erection of a new battery, fort, buildings, and conveniences connected therewith, to the satisfaction of Her Majesty's Board of Ordnance, to be approved of by or on behalf of Her Majesty's Board of Ordnance by the Master-General and Principal Officers for the time being of the said Board of Ordnance, and also, at the cost and charges of the said company, carry up a proper foundation wall for the tower of the said new battery to the level of the proposed dock wall, such foundation wall to be made and constructed under the direction and to the satisfaction of the Master-General and Principal Officers of the said Board of Ordnance; and further, that the said company shall and will, in addition to the constructing and building such foundation wall, contribute towards the expense of erecting the said intended new battery, fort, and buildings such sum as Her Majesty's said Board of Ordnance shall think reasonable, not exceeding the sum of 3,000*l.*

Works not to encroach upon the Barrack enclosure.

That in constructing the said dock and works the company shall not deviate from the line thereof as at present laid down so far as the same runs parallel with the boundary wall of the barracks, and the company shall not construct any works which will encroach upon the said barracks as at present enclosed. 9 Vict., sec. 148.

Tay Ferry and works.

The same exemption from tolls as is set forth *ante* "Burntisland."

Tilbury (see *Gravesend, ante*).

20 Geo. III., c. 38.
21 Geo. III., c. 10.

Companies to convey ordnance stores, &c., in steam boats at certain rates.

By "The London, Tilbury, and Southend Extension Railway Act, 1852," power was taken to establish a steam ferry between Chadwell, Gravesend, Milton, and Northfleet, in the county of Kent, and Tilbury, and it was enacted that the companies should convey and carry in such steam boats all officers, soldiers, and sailors while on duty in Her Majesty's service, and their wives and families, and also all workmen in the employ of Her Majesty's Ordnance, and also all ordnance, barrack, commissariat, and naval carriages, horses, baggage, and parcels, and other public stores of or belonging to Her Majesty, or to such officer, soldier, sailor, or workman, at such rates and prices, not exceeding those at present paid by the Board of Ordnance, as might be thereafter agreed upon between the said company and the said Master-General and Board of Ordnance. 15 Vict., sec. 33. (L. &

, c. 84, It was further enacted, that it should be lawful for the Principal Officers of Her Majesty's Ordnance for the time being, and for all and every person and persons by them authorised and directed, and also for all officers, soldiers, and others in Her Majesty's service, and for all contractors for the supply of stores and other things for the public service, to embark, disembark, and land on and from the pier, landing place, approaches, and other works belonging to the said companies into and from any ship, vessel, steam packet, boat, or other craft, and also to go upon and over any pier, approaches, or landing place to be constructed by virtue of that Act, without paying or being obliged to pay any rates or tolls imposed or to be imposed by virtue thereof or otherwise. Exemption from Pier Tolls in respect of Ordnance Stores and troops.

47. As to the construction of works the same Act provides, that with respect to the branck marked B on the deposited plans, and that part of the main line of railway which is situate between the branch A and the point marked 17 miles, the line of railway should be constructed in such course or direction within the limits of lateral deviation shown such plans as had already been or should be approved of by the Board of Ordnance; and it should not be lawful for the companies, without the consent in writing of such Board, to erect or cause or suffer to be erected upon any land purchased or taken by them on the eastern side of the railway any building within the distance of 600 yards from Tilbury Fort, save and except that at the termination of such branches at the River Thames, and for a space not exceeding 150 yards measured along the line of railway from the river wall, and for a width not exceeding 50 yards, measured from the line of railway on the plan deposited with the clerk of the peace, it should be lawful for the companies to erect such buildings as they may think proper. Prescribing distances of line and buildings fro Tilbury Fort

Walmer Castle—Lands adjacent.

The Right Honourable Robert Banks, Earl of Liverpool, holding the office of Warden and Keeper of the Cinque Ports and their Members, purchased two pieces of pasture land, planted grounds, and garden grounds, abutting and surrounding Walmer Castle, and settled the same by deeds 21st and 22nd December 1810 upon trust (after his decease) to permit the lands to be enjoyed, together with Walmer Castle, by the Lord Warden for the time being, as if the same were part of the precinct and territory of the said castle, and by grant or prescription belonged to the said Lord Warden for the time being by virtue of his office.

In 1821 another piece of land was purchased by the said Earl, and settled by deed of the 13th and 14th September upon the same trusts.

7 Vict., In 1863 a plan of all the lands and hereditaments held by the Lord Warden was prepared, distinguishing therein by a red edging such of the premises as belonged to the Crown and

were then under the charge of Her Majesty's Principal Secretary of State for the War Department, and also the residue of the premises by a blue edging that were then vested in trust as aforesaid, which map or plan was signed by the Viscount Palmerston and Earl De Grey and Ripon, and was deposited in the Office of Her Majesty's Principal Secretary of State for the War Department (marked D 10).

Lands conveyed by recited Indentures vested in Secretary of State for War.

The 26 and 27 Vict., c. 54, then enacted that the lands conveyed by the indentures respectively hereinbefore referred to, being the lands described or delineated on the said plan, and surrounded thereon by a blue edging, should become and be vested in Her Majesty's Principal Secretary of State for the War Department, on behalf of Her Majesty, for all the estate and interest then vested in the trustee thereof, but so nevertheless that the said lands and hereditaments, with their appurtenances, might be held, occupied, and enjoyed together with Walmer Castle by the said Viscount Palmerston, or other the Lord Warden for the time being of Her Majesty's Cinque Ports. 26 & 2 c. 54, s

Waltham.

On 14th August 1850, "The Lee Navigation Improvement Act, 1850," was passed (13 & 14 Vict., c. 109, L. & P.), and contains these sections:—

Level of water to be maintained at or near Waltham.

And whereas by means of the construction of the proposed works and the alteration of the level of the water in the River Lee, at and near the town of Waltham, the depth of water in the stream leading to the mills in the parish of Cheshunt, the property of Her Majesty, and under the control of the Principal Officers of Her Majesty's Ordnance, will be materially increased, and it is expedient to provide for the raising of the banks of the stream, and for maintaining the water in the same at a proper level: Be it therefore enacted, that it shall be lawful for the trustees to raise the banks of the stream to the extent and in the mode defined upon the sections deposited as herein-after mentioned, and also to maintain the level of the water in the stream at the height shown upon the sections. 13 & 1 c. 109, (L. &

Aqueduct Lock to be executed to the satisfaction of the Board of Ordnance.

And be it enacted, that the trustees shall and they are hereby required, in the erection of the lock intended to be executed at or near the aqueduct immediately below King's Weir, to cause the same to be erected upon the compensation principle; and all such works shall be executed to the reasonable satisfaction of the Master-General and Principal Officers of the Board of Ordnance for the time being. *Ibid*, sec.

Saving the rights of the Board of Ordnance.

Provided always, and be it enacted, that nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the estates, rights, interests, liberties, privileges, or franchises of the Master-General and Principal Officers of Her Majesty's Ordnance, or their successors for the time being, or to prohibit, defeat, alter, or diminish any power, authority, interest, or jurisdiction which at the time of the passing this *Ibid*, sec.

Act the said Master-General and the Principal Officers of Her Majesty's Ordnance for the time being did or might lawfully claim, use, or exercise.[1]

(For further information respecting Waltham, *see* p. 247.)

Warley.

{*44 Geo. III., c. 79.
 46 Geo. III., c. 120.

Weedon.

{*43 Geo. III., c. 66.
 44 Geo. III., c. 78.

Weymouth.

1 Geo. 4, c. 116. (L. & P.)

On 10th June 1825, an Act (6 Geo. IV., cap. cxvi, L. & P.) was passed relating to the harbour and bridge of Weymouth, which contains an exemption from tolls over the bridge, but no exemption from harbour dues.

On the 25th June 1847, another Act (10 and 11 Vict., cap. lxviii) was passed to consolidate the provisions relating to the harbour and bridge, which contained a section exempting from bridge tolls, and another section exempting from harbour dues, in these words: And be it enacted, that nothing in this Act or in the recited Acts contained shall charge or be construed to charge any ship, boat, barge, or other vessel belonging to or employed in the service of or seized or detained on behalf of Her Majesty, her heirs and successors, or any vessel in the service of the Customs or Excise, or Post Office, or any officers or persons employed therein respectively, or in the service or employ of the Admiralty or Ordnance, with the payment of any harbour or other dues whatsoever, but that all such ships, boats, barges, and other vessels, and officers and persons aforesaid, shall have free use of the said harbour, without any charge or rate whatsoever being made for the same, and without any toll or rate being payable for any stores belonging to or purchased for Her Majesty's Service, or for any baggage belonging to such officer or person aforesaid; and nothing in this Act contained shall confer any power or control over any of the said vessels or boats, their officers or crews: Provided always, that if any person shall claim and take the benefit of any such exemption as aforesaid, without being entitled thereto, every such person shall for every such offence forfeit and pay the sum of ten pounds.

10 & 11 Vict. c. 68, s. 29. (L. & P.)

Exemptions from Harbour Dues.

In building the fortifications materials were landed in the harbour, and claim for dues was made, which was afterwards

[1] This is repeated in "The River Lee Water Act, 1855" (18 and 19 Vict., c. 196, L. & P.), as sec. 75.

successfully resented before the Queen's Bench, in "The Mayor, &c. of Weymouth *v.* Nugent (Colonel of the Royal Engineers and C.B.), which is reported in 6 Best and Smith, p. 34.

In delivering judgment Chief Justice Cockburn said: There are two great principles which, from an early period of our history, have obtained with regard to the prerogatives of the Crown; first, that the Crown is exempt from the payment of tolls; second, that, except in certain cases, the Crown is not bound by an Act of Parliament unless specially named in it. The question here is, whether the Crown, acting through one of its servants, is liable in respect of stone brought into the harbour of Weymouth, for the use of the Government works, to the duties imposed by statute 6 Geo. IV., cap. cxvi. The doctrine as to the immunity enjoyed by the Crown from the payment of tolls arose in the times when tolls were leviable by virtue of a grant from the Crown, or by prescription from which a grant from the Crown was presumed; and it may well be assumed that when tolls were so granted that the Crown did not intend to include itself in the liability to pay them. But whether or not that be the origin of the immunity, it has obtained from the earliest times, and we cannot suppose that the Legislature took upon itself to make the Crown liable to the payment of these duties without mentioning the Crown in the statute. 6 Best & Smith, 1

Even supposing that those who represent the Crown could not succeed upon the first principle, I think the second concludes the case. The rule that the Crown is not bound by an Act of Parliament unless specially named in it, applies in such a case as the present, where tolls and duties are taken under a local Act; so that this is not within the exceptional cases in which the Crown, though not named, is bound. Mr. Lush relies on section 23, which contains exemptions in favour of the Crown, and he insists upon the doctrine that the expression in a statute of certain exemptions leads to the inference that it was intended by the Legislature that there should be no others. But the case falls within the principle laid down in "Bac. Abr. Prerogative" (E) 5, referred to in the argument, and we must suppose that the exemptions were inserted *ex majori cautelâ.* with the view of pointing out to those charged with the collection of the duties the cases most likely to arise, in which they were to abstain from demanding them. I am fortified in this opinion by the judgment of Lord Campbell in "Westover *v.* Perkins" (*a*). In that case the question arose on the General Turnpike Acts, in which there were exemptions almost in the same terms as those in Section 23 of Statute 6 Geo. IV., cap. cxvi, Lord Campbell said, p. 65, "From time immemorial the Sovereign has been exempt from toll; and when tolls are imposed by statute there is an implied exemption of the Sovereign's property, either in her own personal use, or in that of her household." If Mr. Lush's contention were correct, a clearly established prerogative of the Crown would be directly affected, as in "Westover *v.* Perkins."

We should go contrary to the two well established principles to which I have referred if we held that by implication the Crown was bound by this Act of Parliament. There are some provisions in it from which it has been argued, on the one hand, that it was intended to bind the Crown, and others from which it has been argued that it was not intended to bind the Crown. I do not found my judgment so much on the latter provisions as on the general principles to which I have adverted.

Wimbledon Common, Surrey.

As to its use:—

1st. For the National Association and the Rifle Volunteer Corp. (Secs. 40 to 84.)

2nd. For military purposes. (Sec. 86.)

34 and 35 Vict., c. 204, sec. 40. (L. & P.)

Annual occupation of part of Wimbledon Common by National Rifle Association.

1st. Subject to the provisions of the Wimbledon and Putney Commons Act, 1871, the conservators shall permit the body known as the National Rifle Association exclusively to occupy and use, from year to year, as a rifle shooting ground and place for an encampment, for all purposes of the annual meeting of the association, the whole, or, at the option of the association, any part of the area, being part of Wimbledon Common, which is described on the plans deposited with the Clerk of the Peace of the county of Surrey by being thereon encircled with a brown line, together with the butts, targets, and other conveniences for rifle shooting for the time being thereon: and the association shall not at any time use the part of Wimbledon Common so occupied by them for any purpose or in any manner not authorised by this Act.

Ibid., sec. 41.

Period of occupation by Association, and shooting period.

It shall not be lawful for the conservators to permit the National Rifle Association to occupy or use, or for that association to occupy or use as aforesaid, any part of Wimbledon Common for any longer time in any year than the following—namely:—

For all purposes, 77 consecutive days, commencing not earlier than the 1st of May and terminating not later than the 31st of August (which period is in this Act referred to as the period of occupation):

For purposes of rifle shooting, and for the purpose of a review, 14 days within the period of occupation (which period of 14 days is in this Act referred to as the shooting period);

and the period of occupation and the shooting period respectively shall begin on such days as the association yearly select, by notice in writing delivered at the office of the conservators one week at least before the day selected by the association for the beginning of the period of occupation.

Ibid, sec. 42.

Protection of public by signals, &c. during occupation by Association.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, they shall at their own expense adopt and apply all such reasonable precautions, by means of signals and otherwise, for preventing accidents arising from firing or otherwise as may be from time

to time agreed on between them and the conservators, or determined by arbitration, and shall at all times use their best endeavours to secure that the proceedings of the association, and of the volunteers and others encamped, shall be conducted peaceably and with as little annoyance as may be to the residents in the neighbourhood of Wimbledon Common and the public generally, and the conservators shall at all times aid the association in that behalf.

Protection of surface, heather, &c. by the Association.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, they shall as far as possible preserve the surface of the common, and protect the turf, gorse, heather, timber, and other trees, shrubs, and brushwood thereon; and the association shall not at any time remove or destroy or dig up, or suffer to be removed or destroyed or dug up, any gorse, timber, or other tree, shrub, brushwood, gravel, or other substance thereon, except in case of fire or other great emergency, or (as regards gravel or other substance) of material being required for repair of butts or other conveniences for rifle shooting, or in such other cases (if any) as may be from time to time agreed on between the association and the conservators, or determined by arbitration; and as regards the digging up of gravel and other substances, the association shall only dig up the same, or suffer the same to be dug up, at places from time to time agreed on or determined as aforesaid, and the association shall in all cases within this section act subject and according to such restrictions and rules as may from time to time be agreed on or determined as aforesaid. 34 & 35 Vict., c. 204, sec. 43.

Permission for Association to drain and erect temporary buildings, &c.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, they may drain the part occupied and used by them, and erect thereon such butts and targets and temporary buildings, and generally use the same, in such manner as the purposes of their annual meeting may require, subject to the conditions to be from time to time agreed on between them and the conservators, or determined by arbitration, as to mode of execution of works, and as to removal thereof, and as to supervision and approval thereof by the conservators, and as to restoration of the surface of the common, and removal of all rubbish therefrom, at the expense of the association, and as to other matters, but so that everything done by the association under this section be begun and finished within the period of occupation in each year, and not before or after; provided that the butts which at the time of the passing of the Act were erected on the common for the purpose of the association shall not be removed or altered by the conservators, unless by agreement with the association or under the award of an arbitrator. *Ibid*, sec. 44.

Permission for Association to erect paling, &c.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, they may do the following things or any of them—namely, they may within the seven days (exclusive of Sunday) next before the beginning of the shooting period, but not sooner, put up a paling or other fence round the part occupied by them (but so as not to inter- *Ibid*, sec. 45.

fere more than may be necessary with any road or way), and keep the same up during and for seven days (exclusive of Sunday) next after the shooting period, but no longer, and may during the shooting period keep off and remove from the inclosure made by the paling or other fence any persons other than such as are authorised in pursuance of the Act to enter therein, and may during the shooting[1] period take payment for admission thereto, and may during the shooting period allow, on such terms as they think fit, the erection therein of tents or booths for sale of refreshments and otherwise, for the use of persons admitted within the inclosure, and whenever any such paling or other fence is put up the following provisions shall have effect,—namely:—

(1.) The association shall deliver to the conservators, on their application, free tickets of admission to the inclosure, as follows,—namely, one for each of the conservators personally, and twenty to be used by the conservators for the admission of their officers and servants, or otherwise as they think fit:

(2.) The association shall deliver to the tenant or occupier of any dwelling-house liable to rates under this Act, on his application, free tickets of admission to the inclosure for himself and for such members of his family and friends as are resident with him, but so that no tenant or occupier be entitled to have more than six tickets in respect of one dwelling-house, and that no such ticket be transferable to any person other than one of such members or friends:

But these provisions may be from time to time modified in any manner and to any extent agreed on between the association and the conservators, or determined by arbitration, and nothing in this section shall restrict the generality of other provisions of this Act in favour of the association.

ict., 46. Possession of buildings by Association.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, the conservators shall, subject to the provisions of this Act, permit the association, during the shooting period and the three next preceding days, to have the exclusive possession of the cottage known as Manor Cottage, adjoining the Windmill on Wimbledon Common, with the wooden shed and outbuildings connected therewith, and the portion of Wimbledon Common near thereto heretofore used by the association as a hospital field, but the association shall at their own expense settle all claims of the tenant or occupier for compensation in respect of such possession, and

[1] The National Rifle Association, prior to 1879, charged 1*s.* for admission during the shooting and until gun fire, but in that year they charged after gun fire 6*d.*, a charge the legality of which was disputed by some of the inhabitants. A summons for breaking and destroying the fence, taken out at the Wandsworth Police Court by the Association, was withdrawn and the parties left to their action at law.—See "Times" and other daily papers of 2nd August 1879.

nothing in this section shall be taken to require the conservators to maintain or repair the cottage, shed, and outbuildings aforesaid, or any of them.

Annual payment by Association.

The National Rifle Association, in consideration of the occupation and use by them as aforesaid of part of Wimbledon Common, shall on the 1st day of September in each year (beginning with the year 1872) pay to the conservators, without deduction (except for income tax), the sum of 100*l.* (which shall be carried to the Conservancy Fund), and if in any year the association make default in payment thereof or of any part thereof for 14 days after the day aforesaid, the conservators may recover the same or the unpaid part thereof, with costs, as between solicitor and client, either summarily or by action in any court of competent jurisdiction, or may, at their option, recover the same, or the unpaid part thereof, by distress and sale of all or any goods and chattels for the time being found in any subsequent year within the enclosure made by the association, and the association shall pay to the conservators all costs and expenses incurred by them in connexion with any such distress and sale, and the same may be included in the sum distrained for; and in relation to every such distress and sale the conservators shall have all such powers, rights, and privileges as landlords have against tenants at common law or by statute or otherwise in respect of rent in arrear. 34 & 35 c. 204, s

Damages recoverable from Association.

If the National Rifle Association, or the council or other governing body thereof, or any of the officers thereof, commit or cause or knowingly suffer any breach or default in performance of any of the conditions to be observed or performed by the association under the Act, then and in every such case, and in respect of every such breach or default separately, the association shall (without prejudice to any other remedy or proceeding by the conservators) be liable to pay to the conservators by way of liquidated damages the sum of 100*l.*, and in case of a continuing breach or default a further sum of 10*l.* for every day during which the same continues after notice thereof in writing under the seal of the conservators, addressed to the secretary of the association, and delivered at the office of the association, and every such sum shall be recoverable either summarily or by proceedings in any court of competent jurisdiction; but nothing in this section shall make the association liable in respect of any such breach or default as aforesaid, being beyond the control of the association and the officers thereof. *Ibid*, se

Appointment of trustees for Association.

If in any year the National Rifle Association occupy and use as aforesaid any part of Wimbledon Common, they shall, not less than one month and not more than two months next before the beginning of the period of occupation, deliver to the conservators in writing the names of three fit members of the council of the association, as trustees for the association, for the purposes of this section, with the consent of those members in that behalf in writing under their hands; and all actions, *Ibid*, sec

suits, and proceedings whatever against the association by the conservators in respect of any matter arising within or in relation to the period of occupation in that year may be brought, instituted, and taken against the trustees in their own names, and the trustees shall be jointly and severally liable in all such proceedings for all damages, money, cost, charges, and expenses to all intents as if the cause of action, suit, or proceeding related to them as individuals, and not to the association; and the association shall not in any year begin to occupy and use as aforesaid any part of Wimbledon Common unless and until they have delivered names as required by this section.

1 & 35 Vict., 204, sec. 50. Provided that the National Rifle Association and the Conservators may, if they think fit, from time to time, in case of the incorporation of the association, or otherwise, agree for the substitution for or addition to the security intended to be provided by the Act by means of the appointment of trustees as aforesaid of any other security by way of bond or deposit of money or otherwise. **Power to substitute other security for Association, by agreement.**

Ibid, sec. 51. Subject to the provisions of the Act, the conservators shall permit the following rifle volunteer corps, namely,—the 15th Middlesex, commonly called the London Scottish, the 21st Middlesex, commonly called the Civil Service, the 1st Surrey, and the 11th Surrey Rifle Volunteer Corps (in the Act referred to as the four volunteer corps), respectively, to occupy and use for the purpose of practice of rifle shooting and drill by members of those corps the following parts of Wimbledon Common (in the Act referred to as the ranges); namely, as regards the London Scottish corps the ranges described on the deposited plans by being thereon coloured red, and marked with the letter X (in the Act referred to as the London Scottish ranges), and as regards the other three volunteer corps, the ranges described on the deposited plans by being thereon coloured red, and marked with the letter Y (in the Act referred to as the 11th Surrey ranges), together with the butts, targets, and other conveniences for rifle shooting for the time being thereon, and those corps respectively, or any of them, shall not at any time use the ranges for any purpose or in any manner not authorised by or under the Act. **Use of part of Wimbledon Common for ranges by certain Volunteer Corps.**

Id, sec. 52. Notwithstanding anything in the Act, it shall not be lawful for the conservators to permit the four volunteer corps or any of them to occupy or use, or for those corps or any of them to occupy or use, as aforesaid, the ranges on any Wednesday, or at or for any other or longer time than as follows; namely, on any Monday, Tuesday, Thursday, Friday, and Saturday, between the hours of 12 and 5 in the day, in the months from October to March (inclusive), and between the hours of 2 and 7 in the day in the remaining months; and as among the four volunteer corps themselves (other than the London Scottish corps), the 11th Surrey ranges may be used as aforesaid in the same proportions of time as before the passing of the Act, or in such other proportions as they may from time to time agree. **Period of occupation of ranges.**

Protection of public by signals, &c. at ranges.

Each of the four volunteer corps shall fire only at butts existing at the passing of the Act, or at such butts as are from time to time agreed between those corps respectively and the conservators, or determined by arbitration to be substituted for the same within the ranges, and shall conduct the firing at all times with due regard to the safety of the public, and shall at all times when any firing is going on, at their own expense, adopt and apply all such reasonable precautions, by means of look-out men and of signals and otherwise, for preventing accidents arising from firing or otherwise, as may be from time to time agreed or determined as aforesaid, and shall at all times use their best endeavours to secure that the proceedings of their respective corps and others using the ranges under the Act, shall be conducted peaceably and with as little annoyance as may be to the residents in the neighbourhood of Wimbledon Common and the public generally, and the conservators shall at all times aid the four volunteer corps in that behalf. 34 & 3 c. 204,

Protection of surface, heather, &c. by corps.

As long as the four volunteer corps occupy and use as aforesaid the ranges, they shall as far as possible preserve the surface of the common, and protect the turf, gorse, heather, timber, and other trees, shrubs, and brushwood thereon, and they shall not at any time remove or destroy or dig up, or suffer to be removed or destroyed, or dug up, any turf, gorse, timber, or other tree, shrub, or brushwood, gravel, or other substance thereon, except in case of fire or other great emergency, or (as regards gravel or other substance) of material being required for repair of butts or other conveniencies for rifle shooting, or in such other case (if any) as may be from time to time agreed on between them and the conservators, or determined by arbitration; and as regards the digging up of gravel and other substances, the corps respectively shall only dig up the same or suffer the same to be dug up at places from time to time agreed on or determined as aforesaid, and the corps respectively shall in all cases within this section act subject and according to such restrictions and rules as may from time to time be agreed on or determined as aforesaid. *Ibid*, s

Permission for Volunteer Corps to drain, &c.

As long as the four volunteer corps occupy and use as aforesaid the ranges, they shall, at their own expense, keep in proper repair the butts, targets, and other conveniences for rifle shooting for the time being thereon, and they may drain the ranges and generally use the same in such manner as the purposes of their practice of rifle shooting and drill may require, subject to the conditions to be from time to time agreed on between them and the conservators, or determined by arbitration, as to the mode of execution of works, and as to removal thereof, and as to supervision and approval thereof by the conservators, and as to restoration of the surface of the common, and removal of all rubbish therefrom, and as to other matters; but nothing in the Act shall authorise the four volunteer corps or any of them to put up any building or structure on the ranges without the previous consent in writing of the conservators. *Ibid*, se

Vict., c. 56. Each of the four volunteer corps, in consideration of the occupation and use by them as aforesaid of the ranges, shall, on the 1st of January in each year (beginning with the year 1872), pay to the conservators the sum of one shilling. Annual payment by Volunteer Corps.

. 57. Subject to the provisions of the Act, the four volunteer corps shall from time to time permit the National Rifle Association, and the body known as the County of Surrey Rifle Association, or either of them, to occupy and use the ranges as follows—that is to say, the National Rifle Association during the shooting period in every year, and for six days immediately preceding such period, and the county of Surrey Rifle Association for two consecutive days in each year; provided that each of the said associations give two months notice in writing to the said corps of their intention so to occupy and use the ranges; and in every case the corps so permitting shall give notice thereof in writing to the conservators, and that corps shall be in all respects liable for the acts and defaults of such associations or either of them, and of the members thereof, in the like manner and to the like extent as for the acts and defaults of themselves or of any of their members. Power to permit use of ranges by Association, &c.

. 58. Subject to the provisions of this Act, the London Scottish Rifle Volunteer Corps may, if they think fit, at any time admit the body known as the West End Club to share with them in the privileges given to them by or under the Act, and may, if they think fit, at any time admit any one volunteer corps, but not more than one in any year reckoned from the 1st of January, except in case of the London Scottish ranges not being used in any year by the West End Club, in which case they may during that year admit two volunteer corps, but no more, to Admission of other corps by consent, &c.

Note on Sec. 57 of the Wimbledon Act.

[1] It was contended in "The Wimbledon and Putney Commons Conservators v. Coles" (Vice-Chancellor Wickens) that the Surrey Rifle Association had only a right to use the ranges for the hours mentioned in Sec. 52; but this view was not upheld by the late Vice-Chancellor. Upon the plaintiff's motion for an injunction, he said (22nd May 1872):—"I think the words of the Act are not enough to restrict the two days which are given by the 57th Section to the afternoon hours between 2 and 7 o'clock, or to days in the week other than Wednesday. The Act is ill-expressed, and I am not sure that a rational construction can be put upon every part of it. It seems as if the words in favour of the Surrey Rifle Association were introduced into the 57th Section as an afterthought, and that some addition which was omitted ought to have been made in other parts of the Act. But, however, so much is clear upon the Act that the National Rifle Association has rights independent of and paramount to those of the Volunteer Corps, and that the 57th Section does not import that those rights at least during the shooting period are to be treated as derived in any way from the four corps, or as limited in any way to those which the four corps might exercise for themselves. The difficulty, of course, is that the only right of the Surrey Rifle Association is derived from Clause 57, whereas the right of the National Rifle Association is given by independent clauses. But there is no doubt that some right is given to the Surrey Rifle Association by the 57th Clause which is independent of the permission of the four Volunteer Corps, and which would exist, though the four Volunteer Corps ceased to exist. The question is, whether this right is to be limited by the rights of the four Volunteer Corps, that is to say, the rights which they could exercise, though the same words do not limit the independent rights of the National Rifle Association. It seems to me that this would be too technical a view. I think that the Surrey Rifle Association has under the Act the right to occupy and use the range for two consecutive days in the year without being subject to the restrictions imposed upon the Volunteer Corps."

share with them in the privileges given to them by or under the Act; and subject to the provisions of the Act, any of the four volunteer corps may from time to time, on the occasion of a rifle shooting match between members of their own and those of any other volunteer corps, admit members of those other corps to share with them in the privileges given to the four volunteer corps by or under the Act.

Proceedings against commanding officers.

All actions, suits, and proceedings whatever against any of the four volunteer corps by the conservators, in respect of any matter arising out of the occupation and use by that corps of the ranges, may be brought, instituted, and taken against the commanding officer of that corps at the time when such matter arose, and that commanding officer, and his estate and effects, shall, notwithstanding any change in the person of the commanding officer, be liable in all such proceedings for all damages, money, costs, charges, and expenses to all intents as if the cause of action, suit, or proceeding related to him as an individual, and not to that corps. 34 & 35 c. 204, sc

Substitution of other ranges.

Notwithstanding anything in this Act, the conservators may from time to time, at their own expense, with the previous consent in writing of the Secretary of State for War, after notice in writing of their application for such consent given to the four volunteer corps, substitute for the ranges aforesaid, other parts of Wimbledon Common, affording similar accommodation for the purposes of the practice of rifle shooting and drill, and the parts so for the time being substituted shall be deemed to be the ranges within the Act, and the Act shall have effect in relation thereto accordingly. *Ibid*, sec

Indemnity by Association and corps to Conservators in respect of claims, costs, &c.

The National Rifle Association, and each of the four volunteer corps, shall at all times keep the conservators absolutely indemnified against all claims and demands consequent on or in any manner relating to the occupation and use as aforesaid of any part of Wimbledon Common by the association or that corps, and shall pay all damages, and all costs and expenses (including costs as between solicitor and client) necessarily or properly incurred by the conservators in consequence of any such claim or demand, or in doing anything in which the association or that corps have made default or in remedying anything wrongfully done by the association or that corps, or otherwise in relation to such occupation and use as aforesaid, or in relation to any of the provisions of the Act concerning the same, or concerning in any manner the association or that corps, but nothing in this section shall make the association or any corps liable in respect of any claim or demand of any person claiming under the conservators. *Ibid*, sec

Saving of general bye-laws as affecting members of Association, Volunteer Corps, &c.

Nothing in the provisions of the Act relating to the National Rifle Association or to the four volunteer corps, or any of them, shall exempt or relieve any person, by reason of his being a member of the association, or of any of those corps or of any other body, and whether he is such a member or not, from any obligation, liability, duty, or penalty to which he would be subject or liable under the Act, or any bye-law of the con- *Ibid*, sec

servators, if those provisions had not been inserted in the Act, and, subject to any express provisions in the bye-laws of the conservators to the contrary, those bye-laws shall have full effect as regards all persons, whether members of the association or of any of those corps, or of any other body, or not, during and notwithstanding the occupation and use of any part of Wimbledon Common by the association or any of those corps, or any other body, but (notwithstanding anything in the Act) no bye-law shall be made by the conservators that would take away, abridge, or prejudicially affect any privilege provided for in the Act in favour of the association or any of those corps, or any other body.

14 & 35 Vict., c. 204, sec. 63. If any person uses the ranges for the purposes of the practice of rifle shooting on any Wednesday, or at any time other than the days and times at which the four volunteer corps are permitted to occupy or use the same, under the Act, he shall for every such offence be liable on summary conviction to a penalty not exceeding ten pounds, and any constable or any officer of the conservators may, without other warrant than the Act, take into custody any person so offending in his view, and convey him with all convenient despatch before some justice, to be dealt with according to law. **Penalty for using ranges at unauthorised times.**

Ibid, sec. 64. If any question arises between the conservators on the one hand, and the National Rifle Association, or any of the four volunteer corps, on the other hand, respecting the construction or effect of any provision of the Act relating to that association or those corps or any of them, or respecting anything done or omitted or intended to be done or omitted under any such provision, then (unless the settlement of the question is otherwise provided for in the Act) the same may be referred to arbitration. **Arbitration in case of difference.**

Ibid, sec. 65. Any arbitration between the conservators on the one hand, and the National Rifle Association or any of the four volunteer corps on the other hand, shall be conducted as follows—namely, there shall be two arbitrators, one nominated by the conservators, and the other by the National Rifle Association or the volunteer corps concerned, and there shall be an umpire, who shall be either a person agreed on by the arbitrators before they enter on the reference, or in default of such agreement then a competent and impartial person nominated, on the application of the arbitrators or either of them, before they enter on the reference, by the Lord-Lieutenant of the county of Surrey, by writing under his hand; and the provisions of The Common Law Procedure Act, 1854, relating to arbitrations, shall apply in every such case, and the arbitrators or umpire shall take into consideration all the circumstances of the case, and the costs of the arbitration shall be in the discretion of the arbitrators or umpire. **Mode of arbitration.**

Ibid, sec. 66. Notwithstanding anything in or done under the Act, the conservators may at any time, if they think fit, by notice in writing under their seal, as follows—namely:— **Termination or suspension of permission to Association or corps.**

In the case of the National Rifle Association, addressed to the Secretary of the association, and delivered at the office of the association;

In the case of any of the four volunteer corps, addressed to the commanding officer of the corps, and delivered at the head-quarters of the corps—

declare the desire of the conservators to put an end absolutely to the permission for the association or that corps to occupy and use aforesaid any part of Wimbledon Common, and that permission shall by virtue of that notice, at the end of six months from the delivery thereof, be put an end to accordingly, subject to any award to the contrary of arbitrators or an umpire appointed and acting as in this Act provided; and in every such case the arbitrators or umpire shall take into consideration (with all the other circumstances of the case) the state of the association or corps, and any public or general interest involved or alleged to be involved in the exercise by the association or corps of the permission aforesaid; and the arbitrators or umpire, in case they or he do not think fit to approve by their or his award of the absolute putting an end to the permission aforesaid, may, if they or he think fit, direct the suspension for such time as they or he think fit of the permission aforesaid.

Nature of privilege of Association, Volunteer Corps, &c.

Nothing in or done under the provisions of the Act relative to the occupation and use of any part of Wimbledon Common by the National Rifle Association, or any other association, or any volunteer corps, or any club, or any other body, shall give to any such body any right in or easement over any part of Wimbledon Common; and every such body shall be deemed to be by virtue of the Act merely in the enjoyment of a statutory privilege of the nature provided in the Act, and subject to determination as in the Act prescribed: Provided, and it is hereby declared, that every such statutory privilege, and the enjoyment thereof, shall be subject and without prejudice to all rights of common of pasture or other right or easements, if any, which belong to and may or might be lawfully used, exercised, and enjoyed by any person or body corporate in, over, or upon Wimbledon Common or any part thereof, and that all rightful claims for damages or compensation for interference with any such right or easement shall be satisfied by and at the cost of the body so interfering; and the amount of the damages or compensation, if no agreement be come to by the parties, shall be settled by an arbitrator, to be appointed by them, or in default of such appointment to be nominated by one of the judges of Her Majesty's Superior Courts of Common Law, on the application of either party; and every such nomination, and the proceedings in every such arbitration, shall respectively be subject to and in accordance with the provisions of the Common Law Procedure Act, 1854, or any statutory modification thereof. 34 & 35 c. 204.

Vict., c. 84. The conservators may from time to time, subject to the provisions of the Act, make bye-laws for all or any of the following purposes (*inter alia*)—namely:— Power to make bye-laws.

For the keeping off and removal from the inclosure made by any paling or fence put up by the National Rifle Association on Wimbledon Common under this Act of all persons other than those for the time being authorised in pursuance of this Act to enter therein:

Generally for the prevention or restraint of any act or thing tending to the injury or disfigurement of the commons or to interference with the use thereof by the public for purposes of exercise and recreation, or with the use of parts of Wimbledon Common by the National Rifle Association and four volunteer corps and other bodies respectively in manner authorised by this Act:

Provided that the bye-laws from time to time made by the conservators shall be adapted to the provisions of this Act relative to the National Rifle Association, and the ranges, and to the circumstances connected with the use of various parts of the commons in different manners at different times.

86. Subject to the conditions hereinafter contained, no bye-law prohibiting on the common military drill (including the pitching and striking of tents for the purposes of drill), or prohibiting a review of Her Majesty's troops and reserve forces, or an encampment of the same, shall have any force until it has received the sanction of the Secretary of State for War, as well as the allowance of the First Commissioner of Works: Provided that the following conditions shall apply to such matters respectively:— As to use of common for military purposes.

(*a.*) There shall not be more than two encampments in any one year, except encampments for a single night necessary for the halt of troops on the line of march;

(*b.*) No encampment shall remain on the ground more nights than three:

(*c.*) The area for such drill for encampments and for reviews respectively, being adequate for such purposes, shall from time to time be fixed by the conservators:

(*d.*) All damage done by Her Majesty's troops and reserve forces to the surface of the common which shall be capable of immediate reparation shall be made good by the troops and forces so encamped before they leave the common, and any damage to the common which can be compensated only by pecuniary payment shall be so compensated by the Secretary of State for War:

(*e.*) Any difference which may arise between the Secretary of State for War and the conservators, concerning the adequacy of the area fixed by the conservators for the respective purposes aforesaid, or concerning compensation for damage done to the common, shall be determined by the First Commissioner of Works.[1]

Windsor—Barrack Lane.

Rights of way along Barrack Lane to cease.

On the 20th August 1867, by the 30 & 31 Vict., c. 109, it was enacted that all rights of way over and along the lane called Barrack Lane, so far as it runs through and adjoins on both sides thereof the lands or buildings vested in Her Majesty's Principal Secretary of State for the War Department, shall cease, and the said Principal Secretary shall stop up the said way so far as aforesaid, and enclose and use the site thereof for barrack purposes; and thereupon public notice shall be given of the stopping up and enclosing the same by advertisement in the "London Gazette," and in some local newspaper published or circulated in the counties of Berks and Bucks, and shall be affixed on the outer door of the Town Hall or some other public place within the said borough. 30 & 31 c. 109, s

Woolwich.

Dockyard—
21 Geo. III., c. 46.
28 & 29 Vict., c. 125, and Order in Council of 29th February 1868.

Arsenal and Common—
*34 Geo. III., c. 76.
37 Geo. III., c. 66.
38 Geo. III., c. 34.

*42 Geo. III., c. 89.
43 Geo. III., c. *a*35 & *a*65.
44 Geo. III., c. 107.

a These Acts contained the following section:—

Provided always, and be it further enacted, that no ancient and accustomed highways, roads, paths, or passages, in, over, or upon the said lands vested by, and to be purchased in pursuance of this Act, shall be stopped up, altered, or diverted,

[1] Bye laws have been made under this Act, the last of these being dated the 8th day of November 1876. The 23rd Law is in these words—

"23. No person shall collect, incite, or be present at, any assemblage of persons at any place upon the commons where it may cause obstruction to the use of any road or walk by the public, or to the use of the commons by the Military or Volunteers; and no unauthorised person shall collect, incite, or be present at, any assemblage of persons at any place upon the commons where it may cause obstruction to the lawful use or employment of the commons by the public for purposes of exercise or recreation."

other than and except in such manner as the same respectively might by law have been stopped up, altered, and diverted in case this Act had not been passed.

Local Government thereof—

The parish is governed by a Local Act (47 Geo. III., c. 111, Sess. 2), which received the Royal Assent on the 13th August 1807.

ict., By "The Public Health Supplemental Act, 1852," the provisional order of the General Board of Health, made in pursuance of "The Public Health Act, 1848," was confirmed, with these special provisions which the Act contained:—

2. Nothing herein contained or referred to should sanction or authorize any interference with the watching, paving, and lighting, or internal regulations for the time being of Her Majesty's dockyard, or of any barracks, fortifications, military or other premises, under the control or authority of the officers of Her Majesty's Ordnance in or near the parish of Woolwich; and it should not be lawful for the Local Board of the said parish, or any person whomsoever, to enter into and upon any land which was then or which might at any time thereafter be vested in the principal officers of Her Majesty's Ordnance for the time being, or to make, construct, or set up any sewer, drain, or any work, article, or thing of any description, on, in, under, over, or through any such land or the foreshore in front of any such land, or which may affect the same land or foreshore, without the previous consent of the said principal officers of Her Majesty's Ordnance, signified in writing under the hand of the Secretary of the Board of Ordnance, and then according to such plan, and in such manner, and upon such terms and conditions, and under such restrictions, as might be signified in writing; and if any such sewer, drain, work, article, or thing be made, constructed, or set up, or be commenced to be made, constructed, or set up contrary thereto, it should be lawful for the principal officers of Her Majesty's Ordnance, if he or they think fit, to fill up, remove, and abate the same, and restore the site thereof to its former state and condition at the cost of the said Local Board.

Woolwich Dockyard, & exempted from operation of Act.

4. The first election of the eighteen persons to be elected to form a part of the Local Board of Health for the district of Woolwich, for the purposes of the said Public Health Act, should take place on the 18th day of August 1852, and that the nomination of the three persons to be nominated by the Superintendent of Her Majesty's Dockyard, the Commanding Royal Engineer, the Storekeeper of Her Majesty's Ordnance, and the officer in command for the time being of the Royal Artillery in the parish of Woolwich aforesaid, to form the other members of the Local Board of Health within and for the said district for the purposes of the said Public Health Act, shall take place on the 18th day of August 1852.

First election and nomination of Local Board for Woolwich.

Special provision as to Parish of Woolwich.

"The Metropolitan Local Management Act" enacted, that, notwithstanding anything in the Act contained to the contrary, the provisions should extend and apply to the parish of Woolwich only to the extent and in manner hereinafter mentioned (that is to say): 18 & 19 c. 120, s

> A member of the Metropolitan Board of Works shall be from time to time elected by the Local Board of Health of Woolwich, at a meeting of such Board, as by this Act directed with respect to the vestry of each of the parishes mentioned in the Schedule (A).

The said Metropolitan Board shall have and perform, within and in relation to the said parish, all the powers and duties vested in them under this Act, in like manner as within and in relation to other parishes mentioned in the said Schedule (A), save that the said Local Board shall be subject to all orders of the said Metropolitan Board in relation to sewerage and otherwise, and to all precepts requiring payment of money, in all respects as the vestries of other parishes in the said Schedule (A) are subject to the same, in lieu of the vestry of the said parish; and all sums required to be paid by such precepts shall be defrayed out of any moneys carried to the district fund account, or by means of a general district rate to be levied on the whole of the parish of Woolwich, or such part thereof as may be specified in the precept of the said Metropolitan Board.

As to the Thames river.

On the 17th August 1857 "The Thames Conservancy Act, 1857," (20 & 21 Vict., c. 147,[1]) passed, which contains these sections:—

Conservators may make Bye-laws for the Regulation of the River.

The Conservators shall have full power and authority from time to time to make such bye-laws, rules, orders, and regulations as to them shall seem right and proper for the regulation, management, and improvement of the river and the navigation thereof, and for compelling vessels at anchor or otherwise to carry or exhibit lights from sunset to sunrise, and for the government, good order, and regulation of vessels in or upon the river, and of persons navigating the same, or using the towing-paths, piers, landing places, or any of the locks thereof, also for the mooring of timber, and for the government and regulation of the officers, servants, and workmen in their employ, as the conservators shall think proper, and from time to time to alter, vary or repeal such bye-laws, rules, orders, and regulations, or any of them, as they shall think fit, so that no such bye-law, rule, order, or regulation be contrary to the laws of England or to the provisions of this Act, and so as the same be reduced into writing, and shall be under the common seal of the conservators. 20 & 21 c. 147, (L. &

[1] Amended by 27 & 28 Vict., c. 113 (L. & P.), and 29 & 30 Vict., c. 89 (L. & P.).

Vict., c. 46. It shall be lawful for the Conservators, by any such bye-laws, rules, orders, and regulations to impose and inflict such reasonable fines and forfeitures for the breach or non-performance of such bye-laws, rules, orders, and regulations, or any of them, as they shall think fit, so that no one penalty or forfeiture shall exceed the sum of 5*l.* for any one offence. Provided always, that such bye-laws shall be so framed as to allow the justices before whom any penalty imposed thereby may be sought to be recovered to order the whole or a part only of such penalty to be paid.

Penalties exceeding may be imposed by bye-laws.

. 47. No bye-laws, rules, orders, or regulations made under the powers for that purpose herein contained shall be in force until the same shall have been sent to the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, and shall have been approved by one of them, nor until after 30 days after the same shall have been published twice in some London morning newspaper; and a copy of any such bye-laws, rules, orders, and regulations under the common seal of the Conservators, with a declaration thereon signed by the Secretary that the same have been so approved and published as aforesaid, with the date of such approval and publication, shall be received as evidence of such bye-laws, rules, orders, and regulations, and of the approval and publication thereof as aforesaid, in all Courts of Law and Equity and before all justices.

Bye-laws t approved a published newspaper

. 50. All the estate, right, title, and interest of the Mayor and commonalty and citizens of the city of London in the bed and soil and shores of the River Thames, from Staines in the county of Middlesex to Yantlett in the county of Kent, and all the estate, right, title, and interest to which Her Majesty was on the 23rd day of February 1857, entitled in right of Her Crown of, in, and to the bed and soil and shores of the River Thames within the flux and reflux of the tides, bounded eastward by an imaginary line to be drawn from the entrance of Yantlett Creek in the county of Kent on the southern shore of the said river to the City Stone opposite to Canvey Island in the county of Essex on the northern shore of the said river, and of, in, and to all encroachments, embankments, and inclosures therefrom or thereupon, except such parts thereof as are hereinafter specified, shall from and after the commencement of this Act be and the same are hereby vested in the Conservators; but the Mayor and commonalty and citizens shall continue liable to account for any moneys which may have accrued due to Her Majesty up to the commencement of this Act, under or by virtue of the hereinbefore in part recited Articles of Agreement of the 18th day of December 1856, in respect of the revenues received or to be received since the 31st day of December 1853, as provided for in the eighth clause of these Articles.

All the est of the Cor poration o London an the Crown the bed an soil of Riv Thames vested in Conservato

51 Provided always, that the portion of the bed or soil or shores of the River Thames, or any encroachment, embankment, or inclosure therefrom or thereupon, in front of or immediately adjacent to any lands, buildings, or hereditaments whereof or

Reservatio part of the bed and so

whereto Her Majesty, or any person or body in trust for her, was or were on the 18th day of December 1856 seised or entitled in possession, reversion, or remainder, or which on the said 18th day of December 1856 was the property of any Department of Her Majesty's Government, or in the possession of any such Department or any officers of the same, shall not be vested in the Conservators, but shall continue vested in or in trust for Her Majesty, or in or in trust for such Department or Officers, and be subject to the exercise therein of the same powers, authorities, rights, and privileges as if this Act had not been passed.[1]

This Act not to extend to Her Majesty's ships or moorings or to affect the Act 54 Geo. III., c. 159.

Nothing in this Act contained shall extend to any ships or vessels belonging to Her Majesty or employed in Her Majesty's Service, or to any present or future moorings of or for any of such ships or vessels. 20 & 21 c. 147, sec. 164

Rules and Bye-laws for the Regulation of the Navigation of the River Thames.

The Conservators of the River Thames, in exercise of the powers and authority vested in them by the "Thames Conservancy Act, 1857," and of every other authority therein hereunto in anywise enabling do order and direct as follows, that is to say:—

37. No steam vessel shall be worked, navigated, or placed upon, or anchored, or moored in the river within 360 feet of Her Majesty's dockyard or arsenal at Woolwich, or of Her Majesty's victualling yard or dockyard at Deptford.

55. Any person committing any breach of, or in any way infringing any of these bye-laws, shall be liable to a penalty of, and shall forfeit a sum not exceeding 5*l.*, which said penalty shall be recovered, enforced, and applied according to the provisions of the said "Thames Conservancy Act, 1857."

Under the Act summary proceedings before a justice must be taken within six months next after the commission of the offence.

Wormwood Scrubs.

On the 2nd July 1847, "The Great Western (West London Widening and Branches) Railway Act, 1847," (10 and 11 Vict., c. 91) was passed, which enacts:—

For protection of military road belonging to the Ordnance (L. & P.)

And whereas the branch railway from the Great Western Railway to join the West London Railway hereby authorised to be made is proposed to cross a private military road in the parish of Hammersmith, belonging to the Master-General of Her Majesty's Ordnance, and numbered 40 on the plans of the said railway, deposited as aforesaid: Be it enacted, that the said company shall and they are hereby required to construct a bridge for the purpose of carrying the said road over and across 10 & 1 c. 91, (L.

[1] *See* Plan B, p. 238, as to the lands reserved.

the said railway; and such bridge, and the approaches thereto, shall be for ever thereafter maintained in repair by the said company, and shall be completed to the satisfaction of the said Master-General and Principal Officers of Her Majesty's Ordnance.

Military exercising ground.

On the 21st July 1879 the following Act received the Royal Assent:—

ct.,) Whereas with a view to create a metropolitan exercising ground in pursuance of the Military Forces Localization Act, 1872, one of Her Majesty's Principal Secretaries of State (in this Act referred to as the Secretary of State for War), on behalf of Her Majesty, has purchased, at the expense of the Consolidated Fund, the soil in the common known as Wormwood Scrubs, in the manor of Fulham in the county of Middlesex, containing 137 acres or thereabouts, subject to certain rights of common over the same, and also certain inclosed lands adjoining the said common, containing respectively 53 acres and 5 acres or thereabouts, free from incumbrances and common and other rights, and the same are now vested in the Secretary of State for War on behalf of Her Majesty;

And whereas plans showing the said common coloured light red, and the said inclosed lands coloured dark red and purple respectively, have been deposited at the War Office and at the office of the Metropolitan Board of Works;

And whereas the Secretary of State for War has proposed to the Metropolitan Board of Works that the said common and inclosed lands, amounting to 193 acres or thereabouts, should be vested in the Metropolitan Board of Works on trust, to enable the same to be used for such military purposes as the Secretary of State far War from time to time directs, and subjects thereto, upon trust for the perpetual use thereof by the inhabitants of the metropolis for exercise and recreation, and that the said Board should maintain the same and should undertake the compensation of all rights injured by the trusts and purposes aforesaid, and the Metropolitan Board of Works have consented to such proposal, and it is expedient to carry the same into effect, but the same cannot be carried into effect without the authority of Parliament;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Wormwood Scrubs Act, 1879. Short title.

2. The common known as Wormwood Scrubs, in the manor of Fulham, in the county of Middlesex, and containing 135 acres or thereabouts, and the lands adjoining thereto and containing 53 acres and 5 acres or thereabouts, which common and lands (in this Act referred to as the Scrubs) are shown in plans deposited at the War Office and the office of the Metropolitan Board of Works, and are therein coloured respectively light red, Vesting of Wormwood Scrubs and of adjoining land in Metropolitan Board of Works.

dark red, and purple, shall upon the passing of this Act vest in the Metropolitan Board of Works and their successors, in fee simple in possession upon the trusts declared by this Act, free from all incumbrances. 42 & 43 c. 160.

Use of the Scrubs for military purposes, and for exercise and recreation.

3. The Metropolitan Board of Works shall hold the Scrubs upon trust to enable the same (except the portion or portions excepted as hereinafter mentioned) to be used for such military purposes, whether camps, reviews, drills, training, exercising, firing, rifle ranges, or other whatsoever, as the Secretary of State for War from time to time directs, and subject as aforesaid, shall hold the Scrubs upon trust for the perpetual use thereof by the inhabitants of the metropolis for exercise and recreation.

Provided that—

(1.) No permanent building or erection, except rifle butts, and all necessary appurtenances, shall be constructed on the Scrubs without the consent of the Metropolitan Board of Works and of the Secretary of State for War; and

(2.) No portion of the Scrubs shall, without the consent of the Metropolitan Board of Works, be used for military purposes or as a rifle range on any day declared to be a holiday by the Holidays Extension Act, 1875, or any other Act of Parliament, or by Her Majesty.

Subject and without prejudice to the continuance and use thereon of the firing points to the rifle butts there shall be excepted from the said use for military purposes the portion of the Scrubs marked with hatching on the plans thereof deposited as above mentioned, or such portion or portions differing wholly or partly from the portion so marked, as the Secretary of State for War and the Metropolitan Board of Works from time to time agree upon; such portion of the Scrubs as is not for the time being excepted from use for military purposes as above mentioned is in this Act referred to as the military portion of the Scrubs.

Laying out and planting of the Scrubs.

4. The Metropolitan Board of Works may lay out, drain, level, plant, and improve the Scrubs, in such manner as may be from time to time agreed upon with the Secretary of State for War, as being most expedient for the execution of this Act, but if they shall not agree as to such laying out, draining, levelling, planting and improvement, it shall be referred from time to time, or as often as necessary, to two arbitrators (one to be chosen by the Secretary of State for War, and the other by the Metropolitan Board of Works), with power to them to appoint an umpire in the usual way, to settle such difference; and the Metropolitan Board of Works shall maintain the Scrubs and the inclosure thereof in such condition as may make the Scrubs most suitable for the trusts and purposes declared by this Act respecting the same.

ict., 5. When the military portion of the Scrubs, or any part of such military portion, is required by the Secretary of State for War to be used for any military purpose, the following provisions shall have effect with respect to the said military portion or part:— Regulation Scrubs for military purposes.

(1.) The Secretary of State for War and any of Her Majesty's forces, or other persons acting under the authority of the Secretary of State for War, may use the same for the said military purpose, to the exclusion of all persons whomsoever at such time or times and during such period as the Secretary of State for War directs.

(2.) A person shall not without authority from the Secretary of State for War, or some person acting under his authority, enter the same or any part thereof; and if he enters or attempts to enter the same shall be liable to a fine not exceeding 40*s*.

(3.) Any person who obstructs or interferes with the use of the same for any military purpose, or without due authority removes any flag or mark therein, shall be liable to a fine not exceeding 5*l*.

(4.) A person committing an act for which he is liable to a fine under this section may be removed by any constable by force from the Scrubs or any part thereof, and may be taken into custody by any constable without warrant.

(5.) The Metropolitan Board of Works shall, so far as is reasonably practicable, cause notice to be given of the portion of the Scrubs for the time being required to be kept clear, and of the time or times at which and the period during which it is to be so kept clear, but the absence of such notice shall not exempt a person from any fine or liability under this section, nor interfere with the right of the Secretary of State for War, or of Her Majesty's forces, or persons acting under his authority, or of the Metropolitan Board of Works, to use the Scrubs and exercise the powers conferred by this Act.

6. Whereas by the Metropolitan Board of Works Act, 1877, the Metropolitan Board of Works has power to make bye-laws as regards the parks and other open spaces therein mentioned for the purposes particularly mentioned in the said Act, and enactments are made with respect to the enforcement of such bye-laws, and it is expedient to extend the said Act to the Scrubs: Be it therefore enacted as follows:— Power of Board to make bye-laws as to the Scrubs.

The Metropolitan Board of Works shall have the same power of making bye-laws as regards the Scrubs as they have under the Metropolitan Board of Works Act, 1877, as regards the

parks and other open spaces therein mentioned, and sections two to eleven, both inclusive, of the said Act shall be construed as if they were herein re-enacted, and in terms made applicable to the Scrubs, with this addition, that bye-laws under the said sections may be made (in addition to the purposes therein mentioned) for keeping clear the military portion of the Scrubs, or such part of that military portion as is for the time being required to be used for a military purpose, and for facilitating and regulating the use for a military purpose of the said portion of the Scrubs; provided that such bye-laws shall not apply to any member of Her Majesty's forces or persons acting under the authority of the Secretary of State for War, except so far as they are expressed so to apply and are assented to in writing by the Secretary of State for War.

Expenses of Metropolitan Board.

7. All expenses incurred by the Metropolitan Board of Works in the execution of this Act shall be deemed to be expenses incurred by them in the execution of the Metropolis (Management) Act, 1855, and the Acts amending the same, and may be defrayed accordingly.

Reverter of the Scrubs to Secretary of State for War.

8. If at any time the Scrubs, or any part thereof, ceases, except with the consent of the Secretary of State for War, to be used for exercise and recreation by the inhabitants of the metropolis, or if the Metropolitan Board of Works or their successors fail to comply with the provisions of this Act with respect to the use of the Scrubs for military purposes, the Scrubs shall vest in the Secretary of State for War on behalf of Her Majesty in fee simple, free from incumbrances, and free from all right, interest, and claim whatsoever of the Metropolitan Board of Works, their successors or assigns, or of any other person or persons whomsoever, and the Secretary of State for War may re-enter and take possession of the Scrubs accordingly, but he shall pay to the Metropolitan Board of Works such sum in respect of their outlay on the Scrubs or otherwise as may be just.

Compensation for rights injuriously affected.

9. Compensation for any estate, interest, or right in, over, or affecting Wormwood Scrubs common which may be taken away or be injuriously affected by this Act, or by anything done in pursuance thereof, shall be paid for as the same would be payable if this Act were a scheme under the Metropolitan Commons Act, 1866, and that compensation shall in case of difference be ascertained and provided in the same manner as compensation under that Act, and shall be paid by the Metropolitan Board of Works, but a person claiming any such estate, interest, or right shall not have any right to restrain or interfere with the Secretary of State for War or the Metropolitan Board of Works in the exercise of any rights or powers conferred on him or them by this Act, or to do any act inconsistent with the exercise or to recover any damages for anything done in the exercise of any such rights or powers as aforesaid. Any compensation to be awarded to the copyholders shall be paid by the Metropolitan Board of Works to the homage jury of the

Manor of Fulham on behalf of the copyholders of the said Manor, and the receipt of the treasurers of the said homage jury for the time being shall be a discharge for the said sum to all persons by whom the same or any part thereof shall be due and payable, and the same shall be applied by such jury or by such treasurers under the direction of such jury to charitable purposes within the Manor of Fulham as they think fit.

The sections of "The Metropolitan Board of Works Act, 1877," herein incorporated are these:— 40 Vict., c. 8 (L. & P.)

2. In this Act the following words and expressions have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions: Interpretation of terms.

When any matter shall require to be done before justices, the expression "two justices" means two justices acting together in petty sessions or a metropolitan police magistrate sitting alone:

The expression "the Board" means the Metropolitan Board of Works:

The expression "the District Board" means the Board of Works for the Lewisham District:

The expression "the parks" means and includes the several parks, gardens, heaths, commons, embankments, and open spaces in respect whereof bye-laws are by or under the several Acts mentioned in the schedule to this Act authorised to be made by the Board.

3. The Board may, subject to the provisions of this Act, from time to time, make bye-laws as regards "the parks" for all or any of the following purposes; (that is to say,) General power of Board as to byelaws.

(1.) Their government, control, and management, and the preservation of order and good conduct among persons frequenting them:

(2.) The exclusion and removal therefrom of gipsies, hawkers, beggars, rogues, and vagabonds:

(3.) The protection of "the parks," and of the walls, railings, fences, lamp-posts, trees, shrubs, plants, flowers, walks, seats, and other things therein:

(4.) The prevention of nuisances, annoyances, obstructions, and encroachments:

(5.) The prevention of the deposit of road sand, rubbish, or other matter:

(6.) The prevention of the illegal taking, cutting, or digging the turf, sods, gravel, clay, sand, gorse, heather, plants, shrubs, trees, and the like:

(7.) The prevention of the posting of bills or placards, and the writing, stamping, cutting, printing, drawing, or marking in any manner of any word or character, or of any representation of any object, on any wall, railing, fence, tree, lamp-post, walk, pavement, or seat, or elsewhere in the parks:

(8.) The prevention of bird catching, bird trapping, and the robbing of birds' eggs or nests:

(9.) Generally the prevention and restraint of acts or things tending to the injury and disfigurement of "the parks," or to interference with the use thereof by the public for purposes of exercise and recreation.

Special bye-laws as to heaths and commons.

4. And as regards any heath or common referred to in this Act the Board may, in addition to the several matters mentioned in the immediately preceding section, from time to time, subject to the provisions of this Act, make bye-laws for the following or any of the following purposes; (that is to say,)

The prevention of shooting or chasing of game or other animals thereon:

The regulation of assemblages of persons thereon, and of sports and games played there:

The regulation of the use of animals and carriages let out for hire thereon, and of the drivers of carriages, and of persons letting out for hire or using animals or carriages thereon:

The prevention of vehicles being driven or horses being exercised by grooms and others, on any part of such heath or common not set apart by the Board for the purpose.

Regulations respecting bye-laws.

5. The provisions of the Metropolis Management Act, 1855, respecting the making contents, confirmation, approval, publication, and evidence of bye-laws, and of proceedings before justices, and recovery of penalties thereunder, shall extend and apply to bye-laws under this Act, and bye-laws under this Act shall be deemed byelaws within the Metropolis Management Act, 1855, and Acts amending the same.

Allowance of bye-laws.

6. With respect to the bye-laws of the Board under this Act the following further provisions shall have effect; (namely,)

(1.) Bye-laws shall not have any force unless and until they be allowed by one of Her Majesty's Principal Secretaries of State:

(2.) Bye-laws shall not be allowed unless notice of the intention to apply for allowance thereof, and of the effect of this section, has been published by

the Board one month at least before the application by advertisement in two morning daily papers published in London or Middlesex:

(3.) During one month at least before the application a copy of the bye-laws to be submitted for allowance shall be kept at the office of the Board, open for inspection by persons interested, and the Board shall furnish a printed copy thereof to every person applying for the same on payment of a sum not exceeding one shilling for each copy, and a printed copy of byelaws of the Board under this Act, authenticated by their seal, shall be conclusive evidence of the existence, contents, due making, confirmation, publication, and allowance thereof, without proof of such seal or of any other thing.

Bye-laws as to prohibition of drill.

7. No bye-law which shall extend to the prohibition of military drill on any heath or common shall have any force until it has received the sanction of the Secretary of State for War.

Appointment of constables.

8. The Board may from time to time appoint officers for securing the execution of this Act, and bye-laws thereunder, and may procure any such officers to be sworn in as constables.

Arrest of transient offenders.

9. Any constables or any officer of the Board, and any person called to the assistance of such constable or officer, may without other warrant than this Act, seize and detain any person committing or having committed any offence against this Act, or any bye-law thereunder, whose name or residence is unknown to such constable or officer, and shall convey him with all convenient speed before a justice to be dealt with according to law.

Bye-laws under this Act to supersede those already made.

10. When any bye-laws are made under this Act those for which they are substituted shall no longer be in force, and the powers of the Acts in relation thereto shall cease to be in operation, or to have any effect, except so far as may be necessary for the completion of any proceedings or the recovery of any penalties thereunder.

Penalties under bye-laws to be paid to Board.

11. All penalties which may be recovered under any of the byelaws made by the Board under the powers of this Act shall be paid to the Board, and shall be carried by then to the credit of the funds set apart or appropriated by them towards "the park's" expenses.

The following are the bye-laws made by the Metropolitan Board of Works under the powers of the Wormwood Scrubs Act, 1879, dated 12th December 1879:—

1. The acts and things specified in the following clauses, numbered 1 to 26 respectively, of this bye-law are hereby

prohibited, and are declared to be offences pursuant to the Statute above-mentioned, and throughout these clauses and the bye-laws the word "Board" shall mean the Metropolitan Board of Works, and the words "The Scrubs" shall mean Wormwood Scrubs, as described in the above-mentioned "Wormwood Scrubs Act, 1879," and the word "Act," the said last mentioned Act:—

(1.) Removing or injuring any of the railings, fences, seats, barriers, gates, lamp-posts, notice boards, military or other flags, marks or signals, or other matters or things on the Scrubs, or defacing or disfiguring the same by the posting of bills, placards or notices, or by writing, stamping, cutting, printing, drawing or marking in any manner.

(2.) Cutting, digging up, felling, burning, plucking, breaking, climbing up or upon, or otherwise doing damage or injury to the timber or other trees, shrubs, brushwood, flowers, grass, gorse, furze, fern, or turf on the Scrubs.

(3.) Damaging any magazines, rifle butts, signals, mantlets, or other military appliances on the Scrubs.

(4.) Committing any encroachment on, or making an inclosure of, any part of the Scrubs.

(5.) Erecting or placing on the Scrubs (unless with the consent of the Board in writing) any posts, rails, fences, photographic apparatus, poles, tents, booths, stands, or any buildings or erections of any kind whatsoever.

(6.) Using any portion of the Scrubs as a drying or bleaching ground, by placing clothes or other things on the trees, bushes, turf, grass or ground, or so as to overhang the Scrubs, or by putting up poles or lines, or other supports for clothes or other things, or for shaking, beating, or brushing carpets or mats.

(7.) Committing any nuisance on the Scrubs, or against the magazines, butts or mantlets, or against the walls, railings, or fences thereof, or of the Scrubs.

(8.) Depositing or leaving on the Scrubs any road-sand, refuse, rubbish, manure, dead animals, timber, bricks, stone, or other matter of things.

(9.) Taking, digging, cutting, damaging, or removing grass, gravel, sand, sods, bog-earth, clay, turf, or other substances of or from the Scrubs, without right or without the consent of the Board.

(10.) Burning, or doing any act which might cause any timber, wood, brushwood, gorse, furze, fern, earth, or other substances to be burned on the Scrubs.

(11.) Plying for hire or letting out horses, ponies, mules, asses, goats or other animals on the Scrubs, without a licence from the Board, or at times other than those named in such licence.

(12.) Not wearing on the left arm, and so that its numbers may always be seen, the badge to be supplied by the Board to all such persons so licensed.

(13.) Transferring or lending such badge to any other person, or not returning the same within twenty-four hours after the said licence has been revoked.

(14.) Using as standing places for saddle-horses, ponies, mules, asses, goats or other animals, or for carriages or goat-chaises, any portion of the Scrubs, except that set apart for the purpose (if any), and marked on duplicate plans deposited at the Offices of the Board, Spring Gardens, and with the officers in charge of the Scrubs, or not fastening such animals to the inside railing of such standing places, or being outside such railing for the purpose of plying for hire.

(15.) Drawing, driving, standing, or placing (except under military order) any gun or gun-carriage, limber, or wagon, cart, carriage, van, velocipede, bicycle, truck, or other vehicle on or across the ground, turf, or footpaths, or the shrubberies of the Scrubs.

(16.) Riding, leading, driving, or exercising any horse, ass, mule, or other animal on, over, or across the turf or the footpaths, or on any part of the Scrubs, except the part or parts (if any) set apart for that purpose by the Board, and delineated and shown on duplicate plans deposited at the Offices of the Board, Spring Gardens, and with the officer in charge of the Scrubs.

(17.). Riding at a rate exceeding eight miles per hour, or exercising horses by grooms or servants after the hour of 11 a.m., on the places (if any) set apart for equestrians.

(18.) Turning out to graze or feed, or allowing or suffering to remain on the Scrubs, without right or contrary to the provisions of the said Act, or without the consent of the Board, any cattle, sheep, swine, horse, ass, mule, goose, duck, fowl, or other animal.

(19.) Unlawfully constructing or laying any sewer, drain-pipe, or waterway, or other matter of like nature, on, into, or under any part or parts of the Scrubs.

(20.) Making or forming any new roads or paths over or across the Scrubs without the consent of the Board in writing.

(21.) Bird catching, bird trapping, or laying or placing nets or traps for the taking of birds, taking birds' eggs or nests, shooting or attempting to shoot or chase birds, game or animals, or throwing stones or sticks, or other missiles, with intent to injure or catch such birds, game, or animals on the Scrubs.

(22.) Firing guns or pistols, loitering with firearms, or throwing stones or sticks or other missiles, or doing anything which may endanger the public or be deemed a nuisance, obstruction, or annoyance to the public on the Scrubs, or gambling, betting, or playing with cards or dice.

(23.) Brawling, fighting, quarrelling, cursing, swearing, or using indecent or improper language or being otherwise disorderly upon the Scrubs, or wilfully or designedly doing any act which outrages public decency, or which comes within the meaning of the 4th Section of the Vagrant Act, 5 Geo. IV., cap. 83, whether the offence shall have been or be committed with intent to insult any female or not.

(24.) Interfering with, obstructing or annoying any persons, who with lawful authority are using for military purposes, or who are playing, or have made preparations for playing at cricket, or other lawful games on the portions of the Scrubs (if any) sanctioned by the Board, or with persons properly using the Scrubs.

(25.) Playing or making preparations to play, at football, cricket, or any other game, on any portions of the Scrubs, except those set apart by the Board (if any) for the purpose, and which parts are shown on duplicate plans deposited at the office of the Board, Spring Gardens, and with the officer in charge of the Scrubs.

(26.) Delivering any public speech, lecture, sermon, or address of any kind or description whatever, or entering into any public discussion maintaining the right to deliver any public speech, lecture, sermon, or discourse, except with the written permission of the Board first obtained, and, if obtained, then only upon such portion of the Scrubs, and at such times as may by such written permission be directed and sanctioned by the Board.

2. The Board's Officers are authorised to arrest without warrant any person found committing an offence against the following Acts—

The Vagrant Act, 5 Geo. IV., cap 83.

The Malicious Injury to Property Act, 24 and 25 Vic. cap. 97.

The Larceny Act, 24 and 25 Vic., cap, 96, other than the offence excepted in the 103rd Section of that Act.

3. The Board's Officers are authorised to remove or apprehend, without warrant, any gambler, card-sharper, gipsy, fortune-teller, squatter, vagrant, seller of infamous books or prints, or any person guilty of brawling, fighting, or quarrelling, or using indecent or improper language, or any idle or disorderly persons, or any persons erecting any booth or place of any kind on the Scrubs, that may be dealt with according to law.

4. Any person committing any of the offences mentioned in these bye-laws shall be subject to a penalty not exceeding forty shillings, and for every continuing offence to a penalty not exceeding twenty shillings for each day on which such offence shall continue after written notice of the offence shall have been given.

5. If any person assaults or resists, or aids or incites any person to assault or resist, any Officer of the Board or other person in the execution of his duty, or the lawful exercise of any authority under this Act, or any bye-law thereunder, he shall, for every such offence, be liable, on summary conviction, to a penalty not exceeding forty shillings.

6. All persons found disturbing the public peace, and also all persons committing any offence against the Act of Parliament, passed in the session of Parliament held in the 2nd and 3rd years of the reign of Her present Majesty, Chapter 47, intituled "An Act for further improving the Police in and near the Metropolis," are liable to immediate apprehension, without warrant, so that they may be dealt with according to law.

7. Nothing in these bye-laws shall take away, abridge, or limit any remedy now existing by way of indictment, or shall interfere with the powers of the Metropolitan Police, or any authority legally existing for preventing or punishing offences, or with the powers of the Board as having the control over the Scrubs.

8. Nothing in these bye-laws shall be construed as prohibiting the use of that part of the Scrubs which is referred to as the Military portion of the Scrubs in section 3 of the Wormwood Scrubs Act, 1879, for the military purposes therein mentioned.

Yarmouth, Great.

Duties not to extend to vessels in His Majesty's service. (L. & P.)

In 1835 an Act (6 Will. IV., c. 49, L. & P.) was passed to improve the Harbour, but it enacted, that nothing in this Act contained shall extend to any of His Majesty's vessels of war, or to any vessels employed in or on His Majesty's service for the conveyance of officers or soldiers, or of horses, arms, ammunition or baggage to them belonging, or of ordnance, barrack or commissariat stores, or to any vessel in the service or employ of the Ordnance, Customs or Excise, or of His Majesty's Postmaster-General. 6 Wm. I c. 49. (L. &

Youghal.

On the 26th August 1846, "The Cork and Waterford Railway Act, 1846," (9 & 10 Vict., c. 397) was passed, which enacts:— 9 & 10 c. 397, s

Line of railway, &c., not to pass within 20 yards of nearest point of barracks at Youghal.

And whereas it is indispensably necessary that the barracks and other public property belonging to Her Majesty, and under the control or management of the Board of Ordnance, should be preserved from injury or obstruction in consequence of the said railway: Be it therefore enacted, that nothing in this Act contained shall authorise or empower the said company to carry the said line of railway or the line of deviation thereof within the distance of 20 yards from the nearest point of the barrack wall of Her Majesty's Barracks at Youghal, without the consent of the Principal Officers of Her Majesty's Ordnance, in writing under their hands, first had and obtained for that purpose.

VI. THE MILITARY MANŒUVRES ACTS, 1871–1873.

In June 1871, a Memo. of Instructions was prepared "on the Legislative sanction required to legalize a military encampment in September," and the 34 and 35 Vict., c. 97, received the Royal Assent on 21st August 1871. Other later Acts have been passed, the last of which has for some months past expired, yet, as they may be re-enacted without material alteration, a copy of the Act of 1873 is printed for reference.

36 & 37 VICT., c. 58.

AN ACT FOR MAKING PROVISION FOR FACILITATING THE MANŒUVRES OF TROOPS TO BE ASSEMBLED DURING THE ENSUING AUTUMN.

[28th July 1873.]

Whereas it is intended that during the ensuing autumn a separate body of troops should be assembled for the purpose of military instruction within each of the areas firstly and secondly described in the first schedule hereto, which areas are hereinafter included under the expression "the limits of this Act:"

And whereas it is expedient that provision should be made for facilitating the exercise of the said troops, and for making compensation to persons whose lands may be damaged by the passage of such troops, and for other purposes connected with such assemblage of troops:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the "Military Manœuvres Act, 1873." Short title.

Regulations as to the forces.

2. Within the limits of this Act the forces to which this Act applies, in this Act referred to as "the forces," with their arms, munitions of war, and stores, may pass over any unenclosed or any authorised enclosed lands, whether public or private, and may execute military manœuvres on such lands. They may also encamp on any unenclosed lands, or any authorised enclosed land not under cultivation, or any authorised enclosed arable land from which the crops have been gathered, and for the purpose of any encampment, or for military exercises, dig trenches and throw up temporary field works on any such lands. The forces may supply themselves with water from any authorised sources of water, and may, for the purposes of obtaining such supply, dam up any running water, use any private Passage of forces over lands.

or occupation roads, pass over any authorised enclosed lands, and do all such other acts and things as may be required. They may also make temporary bridges across streams at authorised places, and slope the banks, and do such acts in relation to the crossing streams as may be necessary for providing for the safe passage of the forces, with their arms, munitions of war, and stores.

Provided that it shall not be lawful for the forces to foul the leets of the Plymouth Waterworks Company, or to interfere with the same except for the purpose of pumping water therefrom, and compensation shall be made to such company for the water taken for the supply of the forces from such leets, such compensation to be ascertained in the same manner in which the compensation payable in respect of damage to land is determined under this Act.

Lands closed against passage of forces.

3. Nothing in this Act contained shall empower the forces to enter upon or interfere with any dwelling-house, farmyard, garden, orchard, pleasure ground, nursery ground, rabbit-warren, park, or any premises enclosed within the curtilage of or attached to any dwelling-house, or any lands bearing roots or standing crops, or any underwoods, or any enclosed lands, except enclosed lands which may be declared to be lands on which the forces are authorised to enter, in this Act referred to as authorised enclosed lands.

Lands sown with artificial grasses, whether enclosed or not, shall be deemed to be enclosed lands within the meaning of this Act.

Compensation for damage done by forces.

4. Full compensation shall be made, out of moneys to be provided by Parliament, for any damage that may be caused to any lands within the limits of this Act, by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands; and the amount of compensation payable to any person entitled to such compensation shall be determined as hereinafter mentioned; but no person belonging to the forces shall be liable to any action, suit, indictment, or other legal proceeding in respect of any trespass committed by him upon or damage done to land situate within the limits of this Act.

Commissions for making regulations as to passage of forces over lands.[1]

5. A commission shall be formed for each of the said scheduled areas, in this Act referred to as the county commission of the area, consisting, as to the area firstly described in the first schedule hereto, of the Lord Lieutenant of the county of Stafford and the members representing in this present Parliament the eastern and western divisions of the county of Stafford; and as to the area secondly described in the said first schedule, of the Lord Lieutenant of the county of Devon and the members representing in this present Parliament the southern division of the county of Devon; and as respects each of the said commissions, one of Her Majesty's Principal Secretaries of State may from time to time, by writing under his

[1] See Forms 24 to 30, under this section, in Appendix, p. 240.

hand, add to their number, or fill up any vacancy occasioned in their number by the death, resignation, or unwillingness to act of any member of such commission. Each of the said commissions shall make such rules as to the places and times of meeting, the quorum at meetings, and the modes of procedure as they think fit. Every question shall be decided by a majority of the votes of the members of the commission voting on that question.

The officer in command of the forces within each of the said scheduled areas and the county commission of such area shall from time to time, as to the area within their jurisdiction, by order authorise anything by this Act directed to be authorised, and in particular declare what enclosed lands are to be deemed to be authorised lands and what sources of water to be authorised sources for the purposes of this Act. The said officer and commission may also by order make regulations with respect to the protection of cattle and sheep by securing the same in folds or farmyards, and with respect to any other matter or thing which they may deem essential for the purpose of preventing damage to property and for more efficiently carrying into effect the purposes of this Act.

Public notice shall be given within each area, in such manner as may be directed by the county commission of that area, of any regulation made in pursuance of this Act for the protection of any cattle, sheep, or other property, and no person who neglects to comply with any regulation so made in relation to his property shall be entitled to claim compensation in respect of any damage caused to such property in consequence of his having been guilty of such neglect as aforesaid.

Any powers by this Act given to a county commission and the officer in command of the forces, within either of the said scheduled areas, of making any order or doing any other act or thing may be exercised on behalf of the commission by any member or members of such commission to whom such powers may have been delegated by the commission, and on behalf of the officer by any officer or officers deputed by him for the purpose; and for the purpose of facilitating the exercise of the powers conferred by this Act on such county commission and officer in command, the said commission and officer shall make arrangements for securing the attendance of a sufficient number of members of the said commission at such places and with such bodies of troops as may be agreed upon, with the view of the members so in attendence acting for the purposes of this section in conjunction with the officer in command of the troops or any officers deputed by him.

Any order made in pursuance of this Act in relation to lands may describe such lands by reference to a map or in any other convenient manner, and any order declaring what lands are to be deemed authorised enclosed lands or authorised sources of water may either describe the lands or sources so authorised or may declare all the lands or sources of water within either of the said scheduled areas, or any part thereof, with the specified

exceptions, to be authorised enclosed lands or authorised sources of water.

Any lands from entering on which the forces are prohibited shall, when deemed necessary by the county commission having jurisdiction in respect of such lands, be marked by flags or in such other manner as may for the time being be directed by the said commission.

Any order made under this Act may be altered or amended or a new order made in lieu thereof.

Mode of determining the compensation payable in respect of damage by passage of forces.

6. The following enactments shall be made with respect to compensation for damage under this Act:

(1.) The Commissioners of the Treasury shall appoint a fit person for each of the said scheduled areas, in this Act called the compensation officer, whose duty it shall be, immediately the forces have ceased to occupy or pass over any part of the scheduled area for which such officer acts, to ascertain the damage done, and to receive and settle summarily, and as far as practicable, by agreement, the amount of compensation, in which case the compensation officer shall either cause the compensation to be paid at once, or shall give a writing[1] to the person entitled, stating the amount to be paid, and the place and date at which the same will be paid, such date not being later than thirty days from the time at which such writing is given:

(2.) The mode in which claims of compensation are to be sent to the compensation officer shall be notified within each of the said scheduled areas in manner directed by the county commission having jurisdiction over such area. Every claim for compensation shall be sent to[2] the compensation officer immediately after the forces have ceased to occupy or pass over the land in respect of which compensation is claimed, and at the latest within one week after the damage done:

(3.) Compensation may be paid to the person in actual occupation of the land in respect of which it is claimed, or in case of his absence, or inability, to his wife or some member of his family, his steward, or other person acting for him in the cultivation and management of the land, whose receipt shall be a complete discharge for the damage in respect of which the compensation is paid:

(4.) The Commissioners of the Treasury may, if they think fit, appoint two or more persons to be compensation officers in each of the said scheduled areas, and each of the persons so appointed shall perform the duties and have the powers by this Act conferred on the compensation officer:

[1] See Form 31, under this section, in Appendix 243.
[2] See Form 32, in Appendix, p. 244.

(5.) If the compensation officer fails to settle any claim for compensation, or is unable to decide the person to whom compensation is payable, the case shall be referred by him to the court of arbitration formed under this Act for each of the said scheduled areas, with a statement by the compensation officer of what he considers a fair compensation for the damage done:

(6.) A court of arbitration shall be formed for each of the said scheduled areas, consisting of three persons, one of whom shall be named by the county commission of that area, in writing under the hands of any two or more of the members of that commission, one by the Commissioners of Her Majesty's Treasury, and the third by the two persons already chosen, in writing under their hands, or, in case of their failure to agree as to such appointment within three days, by the chief justice of the Court of Queen's Bench:

(7.) Any vacancy in the office of any member of a court of arbitration formed under this Act occasioned by death, resignation, unwillingness to act, or otherwise, shall be filled up by the authority which appointed the vacating member in the manner in which the vacating member was appointed:

(8.) There shall be paid to the members of any court of arbitration formed under this Act such compensation as the said Secretary of State may, with the approval of the Treasury, determine:

(9.) The court of arbitration for each of the said scheduled areas shall, as respects the area for which it is formed, have full power to decide all questions whatsoever, whether of law or fact, which it may be necessary to decide for the purpose of awarding compensation under this Act, and in particular to decide in any case of alleged damage to lands, whether such damage was or was not caused by or in consequence of the forces, or the strangers accompanying such forces, passing over or occupying such lands, and also (if such damage was so caused) to determine the person entitled to receive compensation for such damage, and such court of arbitration shall not be subject to be restrained in the due execution of its powers by the order of any court, nor shall any proceedings before it be removed by certiorari into any court, nor shall any award by it be set aside:

(10.) A court of arbitration under this Act may examine witnesses on oath, and with respect to the enforcing the attendance of witnesses, after a tender of their expenses, the examination of witnesses, and the production of books, papers, and documents, shall

have all such powers, rights, and privileges as are vested in one of Her Majesty's superior courts of law for such or the like purpose:

(11.) A court of arbitration under this Act may hold its sittings at such times and places as it thinks expedient, and any jurisdiction or act to be exercised or done by such court of arbitration may be exercised or done by any two members of that court:

(12.) A court of arbitration under this Act may appoint a valuer, and may delegate to such valuer such powers of assessing compensation under this Act as it may think fit; but an appeal may be had from his decision to the court of arbitration which appointed such arbitrator:

(13.) A court of arbitration under this Act may examine any valuer appointed by such court as to the amount of compensation which in his opinion ought to be paid in any case of damage brought before it, and may adopt or reject his opinion as it thinks just:

(14.) A court of arbitration under this Act may review and rescind or vary any order or decision previously made by it; but, save as aforesaid, every order or decision of the said court shall be final:

(15.) A court of arbitration under this Act shall publish in such manner as it thinks fit directions as to the mode in which applications are to be made to it under this Act:

(16.) A court of arbitration under this Act shall not be bound to hear any counsel or attorney, but any person claiming compensation may appear in person or by some agent authorised by him in writing, and such court of arbitration may, in addition to compensation for damage, grant further compensation for costs reasonably incurred in substantiating a claim, or may refuse such costs wholly or partially, or reduce the amount of compensation if the person claiming refused a fair offer from the compensation officer:

(17.) Any person fraudulently claiming and receiving compensation to which he is not entitled under this Act shall be guilty of a fraud, and liable to be dealt with as if he had fraudulently received money under false pretences, and shall in addition be liable to pay the money received to the person entitled thereto.

Regulations as to persons not belonging to the forces, and Miscellaneous.

Offences against Act.

7. If any stranger commits any trespass upon or does any damage to any lands within the limits of this Act, he shall be guilty of an offence against this Act, and shall be liable to a

penalty not exceedings forty shillings, in addition to making full compensation in money for any damage he may have caused.

Any stranger going on any lands within the limits of this Act on which the public is not entitled by law to go without the permission[1] of the officer in command of the forces within the area of which such lands form part, or of some officer deputed by him, shall be deemed to have committed a trespass on such lands, and be punishable accordingly.

If any stranger, not having such permission as aforesaid, when warned not to go on any land, attempts to go thereon, or when on such land and warned to depart therefrom, refuses so to depart, he shall, in addition to any other penalty to which he may be subject, be deemed guilty of an offence against this Act, and be liable to a penalty not exceeding forty shillings. He may also be prevented by force from going on, or be removed by force from any such lands as aforesaid.

For the purpose of this section, a warning not to go on lands or to depart from lands may be given by any sentinel or other person belonging to the forces or by any constable, and in the case of enclosed lands every stranger not having such permission as aforesaid shall be deemed to have been warned not to go upon such lands, and be punishable accordingly.

Any constable may take possession of any horse or carriage with which any stranger is trespassing, and may remove the same from any lands on which it is found; and no compensation shall be payable in respect of any damage which may accrue to any such horse or carriage by reason of such removal, which is not caused by the wilful act or neglect of the constable removing the same.

If any person without due authority moves any flag or other mark distinguishing any lands within the limits of this Act, or obstructs or interferes with the movements of the forces, or cuts or damages any telegraph wire laid down by or for the use of the forces, he shall be guilty of an offence against this Act, and be liable to a penalty not exceeding five pounds.

If any person, within either of the said scheduled areas, enters on any lands for the time being directed to be kept clear, or within the lines of any encampment belonging to the forces, without the special permission in writing of the officer in command of the forces within such area, or of some officer deputed by him, he shall be guilty of an offence against this Act, and be liable to a penalty not exceeding forty shillings; and may, if he refuses to go, be removed by force from any lands on which he has so entered.

Any person charged with committing any offence against this Act may be taken into custody without warrant by any constable or person authorised to act as a constable, and may be detained until he can be brought before such a special magistrate as in this Act mentioned, and be dealt with according

[1] See Form 33, in Appendix, p. 245.

to law: Provided that no person shall be detained under the powers of this section for more than six hours without being brought before a special magistrate.

Any constable or person authorised by this Act to act as a constable using force in cases in which force is by this section permitted to be used, shall be indemnified from all consequences which may result from such user by force.

Any two justices of the peace residing in the immediate vicinity of any place where encampments or manœuvres are about to take place in pursuance of this Act, or any special magistrate accompanying a body of troops, may, upon the requisition of the superior officer commanding such body of troops, and with the consent of the owner or occupier of land over which any footpaths or other rights of way (save turnpike, county, or parish roads) exist, temporarily close or divert any such footpaths or other rights of way being within the limits of this Act; provided always, that the duration and limits of such stoppage or diversion shall be publicly declared by printed notices twelve hours previously.

The permission of the officer in command of the forces assembled on either of the said scheduled areas, or of some officer deputed by him, shall, for the purposes of this section, be signified by a document written or printed, or partly written and partly printed, and authenticated in such manner as may be directed by the said Secretary of State.

Constables to be appointed for repression of offences against Act.

8. The said Secretary of State, with the consent of the authority having power to dispose of the services of any constables, may, by order[1] under his hand, appoint such constables, or any of them, to act as constables within either of the said scheduled areas, or any part thereof; and every constable so appointed shall, within the area or part for which he is appointed, have all such powers, privileges, and immunities, and be liable to all such responsibilities as any constable duly appointed has within his constablewick, by virtue of the common law of the realm, or of any Act of Parliament for the time being in force.

Any person belonging to the forces may, within either of the said scheduled areas, when called upon by any constable, assist such constable in performing any duty imposed upon him by this Act, or may, when directed by his commanding officer, act as a constable in respect of any offence against this Act; and any person so assisting or directed to act shall, during the performance of such duty, have the same powers, privileges, and immunities as a constable appointed by the said Secretary of State to act within such scheduled area.

Justices to be appointed for punishment of offences against Act.

9. The said Secretary of State may, as respects each of the said scheduled areas, by order under his hand appoint[2] any county justice or justices, having jurisdiction within such area, or any part of such area, with his or their consent, to attend, for

[1] See Form 34, in Appendix 245.
[2] See Form 35, in Appendix 246.

any time named in such order, the forces or any portion of the forces when assembled in such area; and any justice so appointed, in this Act referred to as a special magistrate, shall, during the time so named, have jurisdiction, as a justice of the peace, to punish any offence against this Act, by whomsoever committed, within the limits of the area for which he is appointed a special magistrate, and any offence by any other act punishable upon summary conviction, and committed by any stranger.

Any power by this Act given to a special magistrate may be exercised by any two or more special magistrates having like jurisdiction.

Any special magistrate may try any case in the open air, or in any other place which he may think convenient, and if the offence be committed in view of such magistrate he may punish the offender without any further evidence. An information in writing shall not be required in respect of any offence triable by any special magistrate.

Where the special magistrate determines that compensation is to be paid by any offender for any damage caused by him to lands, such magistrate shall order such compensation to be paid to the person entitled to receive such compensation, and shall, for the purpose of determining the person so entitled, and the amount of compensation payable, but subject to the appeal hereinafter mentioned, have all the powers by this Act given to the court of arbitration, and the magistrate making such order shall certify the same to the compensation officer, and the amount so paid shall be taken into consideration in considering any further claim to compensation in respect of the damage so committed.

Where any person is guilty of an offence against this Act at a place within the limits of this Act, where the forces, or any portion of them, are exercising or encamping, the special magistrate before whom such offence is tried may, if he thinks fit, instead of subjecting the offender to any other penalty, commit[1] him to the custody of any constable or constables, and direct him to be detained by such constable or constables, either on the field, or at any convenient spot, for any period not exceeding six hours; and such order of commitment shall be valid without any preliminary written proceedings, provided that the special magistrate is satisfied that the offender has been guilty of the offence in respect of which he is committed to custody.

Subject as aforesaid, any offence triable under this Act by any special magistrate shall be prosecuted, as nearly as may be, in manner directed by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties "of justices of the peace out of sessions within England and Wales "with respect to summary convictions and orders," inclusive of any Acts amending the same.

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[1] See Form 36, in Appendix, p. 246.

No order made or warrant issued, or other act or thing done, in pursuance of this Act, by a special magistrate, shall be impeached on the ground of any defect in the jurisdiction of such magistrate, unless the objection to such jurisdiction is made at the time of the making or issue of such order or warrant, or the doing of such act or thing.

Where a special magistrate under this Act awards, by way of compensation for any damage done to lands, any sum exceeding five pounds, any person aggrieved by the decision of such magistrate may, upon giving security for costs to the satisfaction of the magistrate, appeal to the next practicable court of general or quarter sessions holden for the county in which the cause of appeal has arisen, and such court may, upon the hearing of the appeal, confirm, reverse, or modify the decision of the special magistrate, or make such other order in the matter as the court thinks just.

Offences against this Act shall be triable only by a special magistrate, but subject as aforesaid nothing in this Act contained shall affect any jurisdiction which the justices of the county in which any offence may be committed would have had if this Act had not passed.

Evidence of orders and regulations.

10. Evidence of any order or regulation made by or on behalf of a county commission, either alone or in conjunction with the officer in command of the forces, or any officer deputed by him, may be given in all legal proceedings whatever by the production of a copy purporting to be certified to be a true copy by any member of such commission, and notice of any order or regulation made as aforesaid may be served on any person personally or by leaving a copy of such notice at his usual place of abode.

No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section to the truth of a copy of any such order or regulation.

Any order or regulation of which evidence is given in pursuance of this Act shall, until the contrary is proved, be deemed to have been duly made.

Evidence of any rule or proceeding of a county commission, or of any member thereof, not including such order as aforesaid, may be given in all legal proceedings whatever by the production of a certificate under the hands of any two or more members of the commission declaring such rule to have been made, or proceeding to have taken place.

Evidence of any permission given or order made by or on behalf of the officer in command of the forces acting within either of the scheduled areas, or any officer deputed by him, may be given in all legal proceedings whatever by the production of a copy purporting to be certified to be a true copy by the officer in command of the forces, or any officer from time to time deputed by him to certify the same.

Camping Grounds.

Specified camping grounds to be within the limits of Act.

11. The several camping grounds mentioned in the first and second parts of the second schedule hereto, together with all such lands and sources of water in the neighbourhood of the said camping grounds capable of affording or facilitating a supply of water to the forces while encamping or halting thereon, as may be determined by the officer in command of the forces, and a commissioner to be appointed in manner in this section mentioned, to be authorised lands and authorised sources of water, shall be deemed for all purposes to be within the limits of this Act, to the same extent and in the same manner, subject as in this section mentioned, as if they were included in the first schedule hereto, and as to the camping grounds mentioned in the first part of the said second schedule formed part of the area firstly described in the said first schedule, and as to the camping grounds mentioned in the second part of the said second schedule formed part of the area secondly described in the said first schedule.

The Lord Lieutenant of every county in which any of the said camping grounds are situate shall appoint a commissioner or commissioners to act under this section for that county, and every commissioner so appointed shall, in respect of the camping grounds referred to in this section and situate in the county for which he is appointed, be deemed to be substituted for a county commission, and shall have the same powers and stand in the same relation to the officer in command of the forces, or any officer from time to time deputed by him, as the county commission has and stands in in the case of lands within the jurisdiction of such county commission.

If the Lord Lieutenant of any county in which any of the said camping grounds are situate omit to comply with the provisions of this section with respect to the appointment of a commissioner for a period of fourteen days after the passing of this Act, the Secretary of State may make such appointment instead of such Lord Lieutenant; any vacancy in the office of a commissioner appointed under this section may be filled up by the authority which appointed him.

For the purposes of this section the officer in command of the forces shall mean with respect to the camping grounds mentioned in the first part of the said second schedule the officer in command of the forces within the first of the said scheduled areas, and with respect to the camping grounds mentioned in the second part of the said second schedule the officer in command of the forces within the second of the said scheduled areas.

Any special magistrate appointed for any of the said camping grounds shall be a justice of the peace acting in and for the county in which such camping ground, or some part thereof, is situate.

Definitions.

Definitions.

12. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

No order made or warrant issued, or other ...pplies" or "the in pursuance of this Act, by a special m... ...h regular troops, peached on the ground of any defect in ...censed sutlers, and magistrate, unless the objection to s... ...aid forces, as may for the time of the making or issue of s... within the limits of this doing of such act or thing. ...uring the ensuing autumn

Where a special magistrat... ...tary instruction, and are of compensation for any da... ...t and Articles of War; it shall ceeding five pounds, any ...e attached to the said forces, or such magistrate may, t... ...ut not so as to subject such police satisfaction of the ma... ...ct and Articles of War:

court of general or ...er appointed to the command of the forces which the cause of ...ch of the said scheduled areas, or any officer the hearing of ...ers deputed by him, may from time to time decision of th... ...licenses to persons applying for the same, au- the matter ... ...such persons to act as licensed sutlers to the ...forces which he commands, or to be followers of such magistr... ...forces, and may from time to time revoke any licenses taine... ...so granted:

cor... Any holders of such licenses shall be subject to the if... Mutiny Act and Articles of War, and shall be deemed to be licensed sutlers and followers within the meaning of the said Act and Articles, but all other sutlers and followers in or of the said forces, or any part thereof, shall for the purposes of this Act be deemed to be strangers:

idence of ...ers and ...ulation

Any licenses granted in pursuance of this section shall be in such form and authenticated in such manner as may be prescribed by the said Secretary of State, and shall declare the fact that the person thereby licensed is subject to the Mutiny Act and to the Articles of War:

The expression "strangers accompanying the forces," or "strangers" or "stranger" means all such persons or any such person as may for the time being be attending on or accompanying the forces to which this Act applies, or any part thereof, for the purpose of trading, amusement, or any other purpose whatever, and are not or is not subject to the Mutiny Act and Articles of War, but shall not include any owner or occupier of lands when on the lands owned or occupied by him:

The expression "damage to lands" includes damage to trees, underwoods, crops, animals, or other property on such lands, and also any loss or injury that may be sustained by the occupier of any such lands on account of his being unable to cultivate and sow corn or other seeds on such lands during such occupation and passing over such lands; also any loss or injury sustained by any occupier from shutting up and securing his cattle or sheep in folds or farmyards; also any loss or injury sustained by any person by the

damming up of any running stream, or by injury to or exhaustion of any pond or source of water, or by the ... of any private or occupation roads; and "lands" ...des lands covered by water:

...ssion "arms, munitions of war, and stores," ... all matters and things required for the use of ...s to whom this Act applies, or any part ...d all animals and conveyances used for ...veyance of such matters or things; also all ...als used for the food of the forces, or any part ...hereof:

...he expression "unenclosed lands" includes any unfenced or open lands.

Duration of Act.

Time during which Act is to remain in force.

13. This Act, in so far as it relates to the power of the forces, or any part thereof, to pass over and occupy land, shall remain in force till the first day of October next, and no longer, but in so far as it relates to the giving of compensation for damage caused by the passage or occupation of such forces, shall remain in force till the first day of June one thousand eight hundred and seventy-four, and no longer.

SCHEDULES.

First Schedule.

Area firstly described.—Cannock Chase (described.)
Area secondly described.—Dartmoor (described).

Second Schedule.

Part I.

Camping Grounds on the March to and from Cannock Chase (1 to 7 described).

Part II.

Camping Grounds on the March to and from Dartmoor (1 to 5 described).

The expression "forces to which this Act applies" or "the forces" means and includes all such regular troops, militia, yeomanry, volunteers, licensed sutlers, and followers in or of any of the said forces, as may for the time being be assembled within the limits of this Act, or any part thereof, during the ensuing autumn for the purposes of military instruction, and are subject to the Mutiny Act and Articles of War; it shall also include any police attached to the said forces, or any part thereof, but not so as to subject such police to the Mutiny Act and Articles of War:

The officer appointed to the command of the forces within each of the said scheduled areas, or any officer or officers deputed by him, may from time to time grant licenses to persons applying for the same, authorising such persons to act as licensed sutlers to the forces which he commands, or to be followers of such forces, and may from time to time revoke any licenses so granted:

Any holders of such licenses shall be subject to the Mutiny Act and Articles of War, and shall be deemed to be licensed sutlers and followers within the meaning of the said Act and Articles, but all other sutlers and followers in or of the said forces, or any part thereof, shall for the purposes of this Act be deemed to be strangers:

Any licenses granted in pursuance of this section shall be in such form and authenticated in such manner as may be prescribed by the said Secretary of State, and shall declare the fact that the person thereby licensed is subject to the Mutiny Act and to the Articles of War:

The expression "strangers accompanying the forces," or "strangers" or "stranger" means all such persons or any such person as may for the time being be attending on or accompanying the forces to which this Act applies, or any part thereof, for the purpose of trading, amusement, or any other purpose whatever, and are not or is not subject to the Mutiny Act and Articles of War, but shall not include any owner or occupier of lands when on the lands owned or occupied by him:

The expression "damage to lands" includes damage to trees, underwoods, crops, animals, or other property on such lands, and also any loss or injury that may be sustained by the occupier of any such lands on account of his being unable to cultivate and sow corn or other seeds on such lands during such occupation and passing over such lands; also any loss or injury sustained by any occupier from shutting up and securing his cattle or sheep in folds or farmyards; also any loss or injury sustained by any person by the

damming up of any running stream, or by injury to or exhaustion of any pond or source of water, or by the use of any private or occupation roads; and "lands" includes lands covered by water:

The expression "arms, munitions of war, and stores," includes all matters and things required for the use of the forces to whom this Act applies, or any part thereof, and all animals and conveyances used for the conveyance of such matters or things; also all animals used for the food of the forces, or any part thereof:

The expression "unenclosed lands" includes any unfenced or open lands.

Duration of Act.

Time during which Act is to remain in force.

13. This Act, in so far as it relates to the power of the forces, or any part thereof, to pass over and occupy land, shall remain in force till the first day of October next, and no longer, but in so far as it relates to the giving of compensation for damage caused by the passage or occupation of such forces, shall remain in force till the first day of June one thousand eight hundred and seventy-four, and no longer.

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Part II.

Camping Grounds on the March to and from Dartmoor (1 to 5 described).

VII. WARLIKE EXPERIMENTS (BERMUDA).

On the 16th July 1878, a temporary Act (to expire on the 31st December 1880,) was passed by the Local Legislature in these terms:

Preamble.

Whereas His Excellency the Governor and Commander-in Chief has by message informed the Legislature that it is necessary for carrying on operations and experiments essential to the defence of these Islands to make use of the waters, bays and shallows on the coasts of these Islands to such and extent and in such a manner as to temporarily obstruct such waters, bays and shallows, and to render them inconvenient for navigation by boats and small vessels: And whereas it is deemed expedient to grant facilities to Her Majesty's War Department for carrying on such operations and experiments:

We, therefore, &c., be it enacted, &c.:

War Department to have power to occupy any waters, &c., temporarily for warlike experiments.

Notice to be given and precautions taken for buoying and marking places so occupied.

1. It shall be lawful for the Commanding Royal Engineer and other the Officers and persons in the employ of Her Majesty's War Department, at any time, with the sanction of His Excellency the Governor, temporarily to occupy any waters, bays, reefs, channels, or shallows on the coasts of these Islands, and to carry on therein warlike operations and experiments, after giving due public notice of their intention so to do, and of the time during which, and the spaces over and in which such operations and experiments are to be carried on, and always taking and using such precautions for buoying and marking out or otherwise distinguishing or indicating, the places or waters occupied for such purposes, as shall be necessary for the warning and protection of boats and other craft and of all persons, against any danger attending such obstructions, operations, or experiments, and as shall be sanctioned by His Excellency the Governor.

Persons removing or wilfully damaging any War Department boat, buoy, &c., to be liable to a penalty not exceeding 20*l.*, with costs of prosecution and for actual damage done.

2. If any person shall remove or damage any boat, buoy, pole, mooring, float or other thing placed, moored or laid down by the Officers or other persons in the employ of the War Department in any such waters, bays, reefs, channels or shallows, whether for the purpose of distinguishing or marking out the spaces occupied or used, or for carrying on any operations or experiments, or shall wilfully cross, trespass upon or go into, or on, any space or water distinguished or marked out under the provisions of this Act, or shall wilfully and knowingly obstruct or impede any such Officer or other person in performing any act hereby allowed, he shall on conviction thereof before any two Justices of the Peace be liable to a penalty not exceeding Twenty Pounds, and also to pay the cost of repairing any damage or injury done or occasioned by him to any property of the War Department, and to costs of prosecution; which penalty, damages and costs may be sued for and enforced

under the provisions of the Act entitled "An Act to facilitate summary proceedings before Justices of the Peace" passed in the year 1845, and "An Act to continue and amend an Act entitled an Act to facilitate summary proceedings before Justices of the Peace" passed in the year 1848, the provisions of which Acts shall in all respects apply to prosecutions under this Act. Mode of enforcing penalty.

3. Nothing herein shall be construed to permit any Officer or other person in the employ of the War Department to obstruct or endanger the use or navigation of any ordinary Ship Channel, or any of the main boat Channels in these Islands, or to authorise any such Officer or person to go upon or occupy any private property without the consent of the proprietors thereof. The ship channels and main boat channels not to be obstructed, and private property not be occupied without owner's permission.

4. Nothing herein shall prejudice or derogate from the rights of the Crown in, over, or with respect to the seas, shores, and waters on the coasts of these Islands. Rights of the Crown not to be prejudiced

VIII. AS TO ARMS AND MUNITIONS OF WAR.

As to the Proof of Small-Arm Barrels.

By Charter of 14th March 1637, the Master, Wardens, and Society of Gunmakers in the City of London have powers of searching for, proving, and marking all manner of hand guns, whether made in London or within 10 miles thereof, or imported from foreign parts, or otherwise brought there for sale; and in pursuance of their charter the Company have established a Proof House near London.

By statute "the Guardians of the Birmingham Proof House" have a Proof House at Birmingham, which is subject to certain
ict., rules and regulations, as will be seen hereafter.

Prior to the 13th July 1868 it appeared to be expedient that further provision should be made against the forging or counterfeiting of proof marks of the two companies respectively, and for ensuring that barrels of small-arms made in England be duly proved, and marked as proved, and that the exemption of military barrels from such proof be confined to military barrels made for the use of Her Majesty's Forces while the barrels are the property of Her Majesty, and that the two companies respectively should be authorised to provide and maintain branch proof houses at or near to London and Birmingham respectively. Reserving power for Crown to establish public proof houses.

To effect these objects "The Gun Barrel Proof Act, 1868," was passed (as a local and personal Act) and contains many provisions which need not here be set out, as the Act does not

in any way interfere with the power of Her Majesty, her heirs and successors, from time to time to establish public proof houses in such places and under such regulations as to the care and management thereof as to Her Majesty, her heirs and successors, may seem fit. 31 & 32 c. 113, s

But under these sections the Secretary of State has official duties to discharge.

Ibid, se

Bye-laws to be made by Guardians.

The guardians may from time to time make, alter, and repeal bye-laws and rules for regulating the management of their proof house and their branch proof houses; the user and payments for user of the rifle shooting ground; the attendance and duties of their Proof Master and Wardens; the hours for receiving and delivering out barrels sent to be proved; the attendance, remuneration, and duties of officers, workmen, and servants, and their appointment and removal; the issue of certificates to gunmakers, describing barrels and the proof which they have undergone, and the fees to be paid for such certificates; the custody and use of the common seal, and all other matters under their jurisdiction requiring stated regulations; and may attach reasonable pecuniary penalties to the breach of any such bye-laws, to be recoverable before a justice; but no bye-laws shall be made or altered except at a special meeting of the Guardians; and all bye-laws made or altered except after the commencement of this Act, except such as may relate solely to the officers, workmen, or servants of the Guardians, shall be printed, and a copy thereof shall be forthwith, after the making or alteration thereof, delivered or sent by post, without charge, to every Guardian and every member of the Birmingham gun trade, and shall be notified to the officers, workmen, and servants of the Guardians in such manner and to such extent as the Guardians think fit.

Bye-laws to be allowed and approved before coming into operation.

Ibid, se

No bye-laws made under the authority of this Act (except such as may relate solely to the officers, workmen, or servants of the Guardians) shall come into operation until the same be allowed by the Recorder for the time being of the borough of Birmingham at some general or quarter sessions or adjourned sessions of the peace for that borough, and approved under the hand of one of Her Majesty's Principal Secretaries of State; and it shall be incumbent on the Recorder in quarter sessions, on the request of the Guardians, to examine into any bye-laws which may be tendered to him for that purpose, and to allow or disallow the same as to him may seem meet.

Alteration of Rules, Regulations and Scale for proof.

Ibid,

If the two companies from time to time deem the proof or the rules, regulations, and scales stated in Schedule B. annexed, or any of them respectively, insufficient or inapplicable or unsuitable, on application to and with the approval of Her Majesty's Principal Secretary of State for the War Department, or such Secretary of State, on the application of either of the two companies in case the other of them decline, or for one month after being thereunto requested in writing fail, to concur in the application, may repeal or alter all or any of the rules and regulations, and all or any part of the scales respectively

from time to time in force for the proof of small-arms, or of any classes of small-arms, and may make, repeal, and alter any new rules and regulations and any new scales in that behalf: Provided notice of every such repeal or alteration, and of every such new rule, regulation, and scale, shall be given by advertisement in the "London Gazette," and in one of the London daily morning newspapers, and in two or more of the Birmingham newspapers respectively, and by such other public notice, if any, as the two companies respectively think fit: and provided that any such alteration of scale shall not come into force until the expiration of three calendar months after the publication of the last of such advertisements.

The arms made for Her Majesty are exempted from the operation of the Act; thus section 119 enacts:—

Vict., s. 119. The Act shall not extend to compel the proving or marking as proved of any military barrel made for the use of Her Majesty's Forces, while it is the property of Her Majesty, nor to any such barrel after it has ceased to belong to Her Majesty, so long as it shall bear, in addition to a proof mark authorised by Her Majesty's War Department, the letter S struck (prior to such cesser) over or upon the broad arrow or some part thereof by the said War Department; and if any such barrel, after it has ceased to belong to Her Majesty, shall not so bear such letter S, but shall so bear the letter O, this Act shall only compel the proving and marking as proved of such last-mentioned barrel in manner and to the extent in that behalf in Schedule B. specified; but if any such barrel as in this clause first mentioned, after it has ceased to belong to Her Majesty, shall not so bear such letter S or such letter O, it shall (whether it shall or shall not bear a proof mark authorised by Her Majesty's War Department) be deemed an unproved barrel. Provided always, that the officers of the said Secretary of State for the War Department may apply the letters S and O respectively to such military barrels in this enactment mentioned as the said Secretary of State shall think fit; and if any person, without lawful authority (proof of which authority shall lie on the party accused), applies those marks or either of them over or upon the broad arrow in or on any such military barrel he shall be deemed guilty of a misdemeanor, and shall on conviction thereof be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

How far Act shall extend to barrels made for Her Majesty's Forces, &c.

The Schedule B, so far as it relates to military arms is as follows:—

B. It shall be sufficient from time to time to prove all breech-loading military barrels in the same manner as breech-loading military barrels made for the use of Her Majesty's Forces, and with the same weight of gunpowder and the same description of cartridge as are now used or from time to time shall hereafter be used in the proof of similar barrels at the Government Factory at Enfield.

As to any military barrel made for the use of Her Majesty's Forces, which has ceased to belong to Her Majesty, but which

bears, in addition to a proof mark authorised by Her Majesty's War Department, the letter O struck (prior to such cesser) over or upon the broad arrow or some part thereof by the said War Department, it shall, if it be a rifle barrel, be proved with definite proof, or if it be a smooth-bore barrel with half the charge of powder, but with the same weight of bullet which would be applicable to the proof thereof if such barrel were an unproved barrel under the Act, and after either such proof such barrel shall be marked as proved definitively; and as to any military barrel made for the use of Her Majesty's Forces, which has ceased to belong to Her Majesty, and which does not bear, in addition to a proof mark authorised by Her Majesty's War Department, the letter O or the letter S struck (prior to such cesser) over or upon the broad arrow or some part thereof by that Department, it shall (whether it shall or shall not bear a proof mark authorised by that Department) be liable to proof as an unproved barrel according to its classification under the Act.

Factories.

The "Factory and Workshop Act, 1878," applies to all factories and workshops (as therein defined), inclusive of factories and workshops belonging to the Crown, provided that in case of any public emergency a Secretary of State may exempt a factory or workshop belonging to the Crown from the Act to the extent and during the period named by him. 41 Vict. 16, sec.[1]

Gunpowder and Ammunition.

The manufacturing, keeping, selling, carrying, and importing gunpowder is now regulated by "The Explosives' Act, 1875," which is put in operation under the directions of the Secretary of State for the Home Department.

It is therein provided that the Act shall not apply—

Exemption of Government factories, &c. from the Act.

(1.) To any factory, magazine, store, premises, wharf, place, or explosive under the control of a Secretary of State, the Commissioners of the Admiralty, or other department of the Government, or otherwise held for the service of the Crown, or to the manufacture, keeping, or importation of such explosive; or 38 Vict. 17, sec.

(2.) To any of Her Majesty's ships, boats, or carriages; or

(3.) To the keeping or making up, or adapting for use of any explosive issued by or by the authority of a Secretary of State for the use of any volunteer corps or administrative regiment, or by or by the authority of the Commissioners of the Admiralty for the use of any force under the control of those commissioners, so far as such explosive is kept, made up, and adapted for use in accordance with the regulations of the Secretary of State or the said commissioners, as the case may be; or

[1] See also p. 45, *ante*.

(4.) To any storehouse appointed for receiving any such explosive as last above-mentioned in pursuance of section 26 of the Volunteer Act, 1863, and any Act amending the same, or otherwise, if such storehouse is approved by the Secretary of State or the Commissioners of the Admiralty, as the case may be, as a fit place for the storing of such explosive, and is arranged in accordance with the regulations of a Secretary of State or such commissioners for the management of such storehouses, or for the management of the like storehouses appointed for the use of Her Majesty's Army or Navy: or

& 27 Vict. 95.

(5.) To the conveyance of any explosive under the control of a Secretary of State, the Commissioners of the Admiralty, or other department of the Government, or to the conveyance of any explosive otherwise held for the service of the Crown when the same is being conveyed in accordance with the regulations of a Secretary of State or the Commissioners of the Admiralty or other department of the Government.[1]

As to the Import and Export of Arms.

The Customs Consolidation Act, 1876, enacts:—

& 40 Vict., 36, sec. 43.

Arms, &c., may be prohibited.

1st. The importation of arms, ammunition, gunpowder, or any other goods may be prohibited by proclamation or Order in Council.

d, sec. 138.

Goods prohibited by proclamation.

2nd. The following goods may, by proclamation or Order in Council, be prohibited either to be exported or carried coastwise, arms, ammunition, and gunpowder, military and naval stores, and any articles which Her Majesty shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food for man, and if any goods so prohibited shall be exported or brought to any quay or other place to be shipped for exportation from the United Kingdom or carried coastwise, or be water-borne to be so exported or carried, they shall be forfeited.[2]

As to the Transport of Stores.

8 Vict., c. 5, sec. 12.

1st. By railway.

The 7 and 8 Vict., cap. 85, sec. 12, directs that all public baggage, stores, arms, ammunition, and other necessaries and things

[1] See the Regulations of the Army, referred to in Army Circulars, 1876, Cl. 82, and of the Admiralty, 1st Jan. 1872, and see p. 45, *ante*.

[2] This is a re-enactment of 16 & 17 Vict., cap. 107, sec. 150, under which a Proclamation dated 18th February 1854 was issued on the breaking out of war with Russia. See The Proclamation, Vol. I., Phill. Inter. Law, p. 504.

(except gunpowder and other combustible matters, which the railway company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the Secretary at War and the Company), shall be conveyed at charges not exceeding two-pence per ton per mile, the assistance of the military or other forces being given in loading and unloading such goods.[1]

2nd. By passenger ships.

33 & 3 c. 95, s

Authority by Secretary of State to carry naval and military stores in passenger ships.

Any one of Her Majesty's Principal Secretaries of State may, by order under his hand, authorise the carriage as cargo in any passenger ship (subject to such conditions and directions as may be specified in the order) of naval and military stores for the public service, and such stores may, notwithstanding anything contained in the Passengers Act, 1855 (18 & 19 Vict., c. 119), be carried accordingly in such passenger ship.

Such order shall be addressed to the emigration officer or person performing the duties of emigration officer at the port of clearance, and shall be by him countersigned, and delivered to the master of the passenger ship to which it refers, and shall be delivered up by the master to the chief officer of customs at the port where the stores are discharged.

The master shall comply with all the conditions and directions specified in the order, and non-compliance therewith shall be deemed non-compliance with the requirements of the said section 29 of the principal Act (1855).

Exemption of vessels in Her Majesty's service, &c., from rates.

Exemption from Pier and Harbour Dues.

10 & 1 cap. 2 28.

Nothing in the Harbours, Docks, and Piers Clauses Act, 1847, or the special Act contained shall extend to charge with rates or duties, or to regulate or subject to any control, any vessel belonging to or employed in the service of Her Majesty, her heirs and successors, using the harbour, dock, or pier, and not conveying goods for hire, or by any other vessel whatsoever, or any of the officers or persons employed in the service of the Admiralty, Ordnance, or their baggage or goods, or any naval, victualling, or ordnance stores, or other stores or goods for the service of or being the property of Her Majesty, or any troops landed upon or delivered or disembarked from any of the quays of the harbour, dock, or pier, or their baggage, but all such vessels, officers, or persons as aforesaid shall have the free use of the harbour, dock, or pier without any charge or rate being made for using the same: provided always, that if any person claim and take the benefit of any such exemption as aforesaid without being entitled thereto, he shall for every such offence be liable to a penalty not exceeding ten pounds.

As to Patent Rights.

By the 22 Vict., c. 13 (Patents for Inventions, munitions of war), these provisions are enacted:—

[1] As to the construction of this section, Attorney-General *v.* Great Southern and Western Railway, Irish C. & Rep., p. 447; Robertson *v. ib.*, Nov. 1878.

Improvements in instruments of munitions of war may be assigned by inventors to Secretary of State for War.

13. Any inventor of any improvement in instruments or munitions of war, or the executors, administrators, or assigns of such inventor, may, for valuable consideration or without, assign to Her Majesty's Principal Secretary of State for the War Department, on behalf of Her Majesty, all the benefit of the invention, and of all letters patent obtained or to be obtained for the same, and such Secretary of State may be a party to the assignment, and such assignment shall be effectual to vest the benefit of such invention and of such letters patent in the said Secretary of State for the time being, on behalf of Her Majesty, at law and in equity; and the benefit of such invention and of such letters patent shall be deemed property acquired by the said Secretary of State on behalf of Her Majesty; and all covenants and agreements contained in such assignment for giving full effect thereto, and for keeping the invention secret, and otherwise in relation thereto, shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced and proceeded upon by the said Secretary of State for the time being accordingly, and all actions, suits, and proceedings in relation thereto may be instituted and conducted by such Secretary of State for the time being, who shall have all such rights, privileges, and prerogatives in relation thereto as by law provided in the case of actions, suits, and proceedings concerning property under his care, control, and disposition.

Secretary of State for War may certify to Commissioners of Patents that the invention should be kept secret.

3. Where any such assignment as aforesaid has been made to the said Secretary of State, he may, at any time before the filing of the petition for the grant of letters patent for the invention, or after the filing of such petition and before publication of the provisional specification (if any), if he think it for the benefit of the public service that the particulars of the invention, and of the manner in which the same is performed, should be kept secret, certify the fact of such assignment having been so made, and his opinion to the effect aforesaid, in writing under his hand to the Commissioners of Patents for Inventions.

Where the Secretary of State for War has so certified, petition for letters patent, &c., to be left with the Clerk of the Patents in a packet under seal of Secretary of State.

4. Where the said Secretary of State certifies as aforesaid the petition for letters patent for the invention, the declaration accompanying such petition, and the provisional specification or complete specification (as the case may be) filed or left therewith, and any specification to be filed in pursuance of the condition of any letters patent for such invention, and all disclaimers and memoranda of alterations to be filed in relation to such letters patent, and any drawings accompanying any of the documents aforesaid, and any copies of any such documents or drawings, or, where the said Secretary of State so certifies after the said petition has been filed, such of the said documents and drawings as may be filed after his so certifying, and the copies thereof shall, in lieu of being filed or left in the ordinary manner in the office of the commissioners, or in the office appointed for that purpose under "The Patent Law Amendment Act, 1852," be delivered to the Clerk of the Patents in a packet sealed with the seal of the said Secretary of State.

Such packet to be kept so sealed, or under the seal of the commissioners.

Such packet shall at all times after the delivery thereof to the Clerk of the Patents, until the expiration of the term or any extended term for which letters patent for the invention may be granted, be kept by him sealed up as aforesaid, or under the seal of the Commissioners, save when it may be necessary to have access to the documents therein contained, or any of them, for the purpose of recording and endorsing the day of the filing thereof, or for the purpose of any reference to one of the law officers, either in relation to the same or any other invention; but in any such case as aforesaid the Clerk of the Patents shall not part with the care or custody of the said packet, or any of the said documents, save as may be required by one of the law officers for the purposes of any such reference, and shall use such precautions as may be necessary to prevent the contents or particulars of any such documents being improperly disclosed. 22 Vict. sec. 5.

Such sealed packet to be delivered, on demand, to Secretary of State, or by order of Lord Chancellor.

Such sealed packet shall be delivered at any time during the continuance of any such letters patent to the said Secretary of State, or to any person having authority to receive the same on his behalf, on demand in writing under the hand of the said Secretary of State, or to such person as the Lord Chancellor may order, and shall, if and when the same is returned to the Commissioners, be again sealed up and kept under seal as aforesaid. *Ibid*, sec

At the expiration of letters patent sealed packet to be delivered to Secretary of State.

Such sealed packet as aforesaid shall, at the end of the term or extended term for which any letters patent for the invention to which the documents in such packet relate, be delivered up to the said Secretary of State or to any person having authority to receive the same on his behalf. *Ibid*, s

Where Secretary of State certifies after filing of petition, documents already filed to be put into a sealed packet.

Where the said Secretary of State certifies as aforesaid after the filing of the petition, and before the publication of the provisional specification (if any), such petition, and the declaration accompanying such petition, and the provisional specification and drawings relating to the invention which may have been filed or left in any such office as aforesaid, and all copies thereof in any such office, shall be forthwith placed in a packet sealed with the seal of the Commissioners; and every such packet shall be subject to all the provisions of this Act concerning any sealed packet delivered to the Clerk of the Patents. *Ibid*, s

Copy of specification, &c., not to be sent to Scotland or Ireland, or published, but otherwise provisions of Patent Acts to apply.

No copy of any specification, or other document or drawing by this Act required to be kept under seal, shall be transmitted to Scotland or Ireland, or be printed published, or sold, or be open to the inspection of the public; but, save as in this Act otherwise directed, the provisions of the Patent Law Amendment Act, 1852, and any Act amending the same, shall extend and be applicable to and in respect of every such specification and other document and drawing as aforesaid, and the letters patent and invention to which the same relates, and this Act and the Patent Law Amendment Act, 1852, shall be construed together as one Act. *Ibid*, s

13. It shall not be lawful for any person to take proceedings by scire facias or otherwise to repeal any letters patent for any invention in relation to which the said Secretary of State has certified as aforesaid. — No scire facias to be brought.

11. The Secretary of State may, at any time by writing under his hand, waive the benefit of this Act with respect to any particular invention, and the documents and matters relating thereto shall be thenceforth kept and dealt with in the ordinary way. — Secretary of State may waive the benefit of this Act as respects any invention.

12. The communication of any invention for any improvement in instruments or munitions of war to the said Secretary of State, or to any person or persons authorized by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any letters patent for the same.[1] — Communication of invention to Secretary of State, &c., not to prejudice letters patent.

IX. AS TO THE PROTECTION OF STORES.

Under the Criminal Law.

The Public Stores Act, 1875.[2] — Short title.

Enacts that—

(2.) The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State: — Interpretation of terms.

The term "the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral:

The term "stores" includes all goods and chattels, and any single store article:

The term "summary jurisdiction" means as follows: — "Summary Jurisdiction Acts."

As to England, the 11 & 12 Vict., c. 43.

As to Scotland, the Summary Procedure Act, 1864;

As to Ireland, within the police districts of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, The Petty Sessions (Ireland) Act, 1851, and any Act amending the same;

Vict.

Vict.

The term "court of summary jurisdiction" means—

In England and Ireland, any justice or justices of the peace, metropolitan police magistrate, stipendiary or

[1] This provision is consistent with the law as laid down in *Re* Newall and Elliott, 4 C. B. (N. S.) 268.

[2] 38 & 39 Vict., c. 25., passed 29th June 1875.

"Court of summary jurisdiction."

other magistrate, or officer, by whatever name called, to whom jurisdiction is given by Summary Jurisdiction Acts or any Acts therein referred to; and In Scotland, the sheriff or sheriff substitute.

Stores to which the Act applies.

3. This Act shall apply to all stores under the care, superintendence, or control of the Secretary of State or the Admiralty, or any public department or office, or of any person in the service of Her Majesty, and such stores are in this Act referred to as Her Majesty's stores. The Secretary of State, Admiralty, public department, office, or person having the care, superintendence, or control of such stores are hereinafter in this Act included in the expression public department.

Marks in schedule appropriated for public stores.

4. The marks[1] described in the first schedule to this Act may be applied in or on stores therein described in order to denote Her Majesty's property in stores so marked; and it shall be lawful for any public department, and the contractors, officers, and workmen of such department, to apply those marks, or any of them, in or on any such stores; and if any person without lawful authority (proof of which authority shall lie on the party accused) applies any of those marks in or on any such stores he shall be guilty of a misdemeanor, and shall on conviction thereof be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Obliteration with intent to concealment.

5. If any person with intent to conceal Her Majesty's property in any stores takes out, destroys, or obliterates, wholly or in part, any such mark as aforesaid, or any mark whatsoever denoting the property of Her Majesty in any stores, he shall be guilty of felony, and shall on conviction thereof be liable, in the discretion of the court before which he is convicted, to be kept in penal servitude for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Power to stop suspected boats, persons, &c.

6. A constable of the metropolitan police force may, within the limits for which he is constable, and any constable, if deputed by a public department, may, within the limits for which he is constable, stop, search, and detain any vessel, boat, or vehicle in or on which there is reason to suspect that any of Her Majesty's stores stolen or unlawfully obtained may be found, or any person reasonably suspected of having or conveying in any manner any of Her Majesty's stores stolen or unlawfully obtained.

A constable shall be deemed to be deputed by a public department within the meaning of this section if he is deputed by any writing signed by the person who is the head of such department, or who is authorised to sign documents on behalf of such department.

Unlawful possession of Her Majesty's stores.

7. If any person is brought before a court of summary jurisdiction charged with conveying, or with having in his possession or keeping any of Her Majesty's stores reasonably

[1] See Chas. I., order establishing a Crown Mark, Vol. 2, p. 678.

suspected of being stolen or unlawfully obtained, and does not give an account to the satisfaction of the court how he came by the same, he shall be deemed guilty of a misdemeanor, and shall be liable, on summary conviction, to a penalty not exceeding 5*l.*, or, in the discretion of the court, to be imprisoned for any term not exceeding two months, with or without hard labour.[1]

* * * * *

Penalty on dealer, &c., found in possession of stores, and not accounting for them.

9. If stores are found in the possession or keeping of a person being in Her Majesty's service, or in the service of a public department, or being a dealer in marine stores, or in old metals, or a pawnbroker (within the meaning of any enactments for the time being in force relating to such dealers, or to pawnbrokers), and he is taken or summoned before a court of summary jurisdiction, and the court sees reasonable grounds for believing the stores found to be or have been Her Majesty's property, then if such person does not satisfy the court that he came lawfully by the stores so found, he shall be liable, on summary conviction, to a penalty not exceeding 5*l.*

Criminal possession explained.

10. For the purposes of this Act stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit, or for the use or benefit of another.

Conviction of dealer in old metals.

11. A conviction in England under any provision of this Act of a dealer in old metals, shall, for the purposes of registration and its consequences under the Old Metal Dealers Act, 1861, be equivalent to a conviction under that Act.

Parts of 24 & 25 Vict., c. 96, incorporated.

12. The following sections of The Larceny Act, 1861, are hereby incorporated with this Act, and shall, for the purposes of this Act, be read as if they were here re-enacted, namely, sections 98 to 100, 103, 107 to 113, and 115 to 121, all inclusive; and for this purpose, the expression "this Act," where used in those sections, shall be taken to include the present Act.

Principals in the second degree and accessories.

98. In case of every felony punishable under this Act every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property) shall, on conviction, be liable at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and every person who shall aid, abet, counsel or procure the commission of any misdemeanor punishable under this Act shall be liable to be indicted and punished as a principal offender.

Abettors in misdemeanors.

Abettors in offences punishable on summary conviction.

99. Whosoever shall aid, abet, or counsel, or procure the commission of any offence, which is by this Act punishable on summary conviction, either for every time

[1] See p. 48, *ante*.

of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice of the peace, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this Act made liable.

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

As to restitution and recovery of stolen property:

100. If any person guilty of any such felony or misdemeanor as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, shall be indicted for such offence, by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case in this section aforesaid the court before whom any person shall be tried for any such felony or misdemeanor shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner: Provided, that if it shall appear before any award or order made that any valuable security shall have been bonâ fide paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been bona fide taken or received by transfer and delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, in such case the court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods for any misdemeanor against this Act.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

A person in the Act of committing any offence may be apprehended without a warrant.

A justice, upon good grounds of suspicion proved on oath, may grant a search warrant.

As to apprehension of offenders, and other proceedings:

103. Any person found committing any offence punishable, either upon indictment or upon summary conviction, by virtue of this Act except only the offence of angling in the daytime, may be immediately apprehended without a warrant by any person, and forthwith taken, together with such property, if any, before some neighbouring justice of the peace, to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon indictment or upon summary conviction by virtue of this Act, shall have been committed, the justice

may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorised, and, if in his power, is required to apprehend and forthwith to take before a justice of the peace the party offering the same, together with such property, to be dealt with according to law.

Any person to whom stolen property is offered may seize the party offering it.

107. In every case of a summary conviction under this Act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by the justice, shall not be paid, either immediately after the conviction, or within such period as the justice shall at the time of the conviction appoint, the convicting justice (unless where otherwise specially directed) may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed 5*l.*, and for any term not exceeding four months where the amount, with costs, shall not exceed 10*l.*, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amonnt and costs.

If a person summarily convicted shall not, &c., the justice may commit him. Scale of imprisonment.

108. Where any person shall be summarily convicted before a justice of the peace of any offence against this Act, and it shall be a first conviction, the justice may, if he shall so think fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Justice may discharge the offender in certain cases.

109. In case any person convicted of any offence punishable upon summary conviction by virtue of this Act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the Crown, or from the Lord Lieutenant or other Chief Governor in Ireland, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been so discharged from his conviction by any justice as aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

A summary conviction shall be a bar to any other proceeding for the same cause.

110. In all cases where the sum adjudged to be paid on any summary conviction shall exceed 5*l.*, or the imprisonment adjudged shall exceed one month, or the conviction shall take place before one justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions

Appeal.

which shall be holden not less than 12 days after the day of such conviction for the county or place wherein the cause of complaint shall have arisen; provided, that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or shall enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; or if such appeal shall be against any conviction, whereby only a penalty or other sum of money shall be adjudged to be paid, shall deposit with the clerk of the convicting justice such a sum of money as such justice shall deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction and the costs of the appeal; and upon such notice being given, and such recognizance being entered into, or such deposit being made, the justice before whom such recognizance shall be entered into, or such deposit shall be made, shall liberate such person if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet, and in case of the dismissal of the appeal or the affirmation of the conviction shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where after any such deposit shall have been made as aforesaid the conviction shall be affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction and the costs of the appeal, to be paid out of the money deposited and the residue thereof, if any, to be repaid to the party convicted; and in any case where after any such deposit the conviction shall be quashed, the court shall order the money deposited to be repaid to the party convicted; and in every case where any conviction shall be quashed on appeal as aforesaid the clerk of the peace, or other proper officer, shall forthwith endorse on the conviction a memorandum that the same has been so quashed; and whenever any copy or certificate of such conviction shall be made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction.

No certiorari, &c.

111. No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari into any of Her Majesty's Superior

Courts of Records; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions to be returned to the Quarter Sessions.

112. Every justice of the peace before whom any person shall be convicted of any offence against this Act shall transmit the conviction to the next court of general or quarter sessions which shall be holden for the county or place wherein the offence shall have been committed, there to be kept by the proper officer among the records of the court; and upon any information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

Venue in proceedings against persons acting under this Act.

Notice of action.

General issue, &c.

113. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial shall be shall certify his approbation of the action.

Offences committed within the jurisdiction of the Admiralty.

115. All indictable offences mentioned in this Act which shall be committed within the jurisdiction of the Admiralty of England or Ireland shall be deemed to be offences of the same nature, and liable to the same punishments, as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in which the offender shall be apprehended or be in custody; and in any indictment for any such offence or for being an accessory to any such offence the venue in the margin shall be

the same as if the offence had been committed in such county or place, and the offence itself shall be averred to have been committed "on the high seas;" provided, that nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty's Land or Naval Forces.

Form of indictment for a subsequent offence.

116. In any indictment for any offence punishable under this Act, and committed after a previous conviction or convictions for any felony, misdemeanor, or offence, or offences punishable upon summary conviction, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places convicted of felony, or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be,) without otherwise describing the previous felony, misdemeanor, offence or offences; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of any such summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or to which such summary conviction shall have been returned, or by the deputy of such clerk or officer (for which certificate or copy a fee of 5*s.* and no more shall be demanded or taken,) shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the same; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows: (that is to say,) the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the court order a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted the court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned inquiry: Provided, that if upon the trial of any person for any such subsequent offence such person shall

When the previous conviction is to be proved on the trial.

give evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such persons for the previous offence or offences before such verdict of guilty shall be returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

Fine, and sureties for keeping the peace: in what cases.

117. Whenever any person shall be convicted of any indictable misdemeanor punishable under this Act, the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this Act authorised, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorised: Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Hard labour.

118. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this Act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

Solitary confinement and whipping.

119. Whenever solitary confinement may be awarded for any indictable offence under this Act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for any indictable offence under this Act, the court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.

Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict., c. 93;

120. Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the Act 11 & 12 Vict., c. 43, so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution, and may be prosecuted in Ireland before two or more justices of the peace, or one metropolitan or stipendiary magistrate, in the manner directed by the Act 14 & 15 Vict., c. 93, or in such other manner as may be directed by any Act that may be passed for like purposes; and all provisions contained in the said Acts shall be applicable to such prosecutions in the same manner as

except in London and the Metropolitan Police District.

if they were incorporated in this Act: Provided, that nothing in this Act contained shall in any manner alter or affect any enactment relating to procedure in the case of any offence punishable on summary conviction within the city of London or the metropolitan police district, or the recovery or application of any penalty or forfeiture for any such offence.

The costs of the prosecution of misdemeanors against this Act may be allowed.

121. The court before which any indictable misdemeanor against this Act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

Provision for regimental necessaries, &c.

13. The provisions of this Act relative to the taking out, destroying, or obliterating of marks, or to the having in possession or keeping Her Majesty's stores, shall not apply to stores issued as regimental necessaries or otherwise for any soldier, militiaman, or volunteer; but nothing herein shall relieve any person from any obligation or liability to which he may be subject under any other Act in respect of any such stores.

Summary proceedings for offences, penalties, &c. in England, Ireland, and Scotland.

14. In England and Ireland all offences for which a person is liable under this Act on summary conviction to any punishment or penalty may be prosecuted, and any such penalty may be recovered before a court of summary jurisdiction in manner directed by the Summary Jurisdiction Acts.

Provided as follows:

The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted—

(*a.*) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace; and

(*b.*) In Ireland, within the police district of Dublin metropolis, of one of the divisional justices of that district sitting at a police court within the district, and elsewhere of two or more justices of the peace sitting in petty sessions at a place appointed for holding petty sessions:

In Scotland, all offences for which a person is liable under this Act on summary conviction to any punishment or penalty may be prosecuted, and any such penalty may be recovered before the sheriff or sheriff substitute, and may be so prosecuted and recovered under the provisions of the Summary Jurisdiction Acts, and all jurisdictions, powers, and authorities necessary

for that purpose are hereby conferred on sheriffs and their substitutes.

Penalties, &c., to be paid into Exchequer.

15. Any pecuniary penalty or other money recovered under this Act in relation to any stores shall, in such manner as the Treasury from time to time direct, be paid into the receipt of the Exchequer, and carried to the consolidated fund; and this section shall supersede any enactment to the contrary contained in any Act relating to municipal corporations or the metropolitan police, or in any other Act.

Not to prevent persons being indicted.

16. Nothing in this Act shall prevent any person from being indicted under this Act or otherwise for any indictable offence made punishable on summary conviction by this Act, or prevent any person from being liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence.

Amendment of sect. 45 of 28 & 29 Vict., c. 89.

17. Section forty-five of The Greenwich Hospital Act, 1865, shall be read and have effect as if this Act, instead of the Naval and Victualling Stores Act, 1864, were referred to in that section.[1]

FIRST SCHEDULE.

Marks appropriated for use in or on Her Majesty's Stores.

Stores.	Marks.
Hempen cordage and wire rope	White, black, or coloured worsted threads laid up with the yarns and the wire respectively.
Canvas, fearnought, hammocks, and seamen's bags.	A blue line in a serpentine form.
Buntin	A double tape in the warp.
Candles	Blue or red cotton threads in each wick or wicks of red cotton.
Timber or metal	The name of Her Majesty, her predecessors, her heirs or successors, or of any public department, or any branch thereof, or the broad arrow, or a crown, or Her Majesty's arms, whether such broad arrow, crown, or arms be alone or be in combination with any such name as aforesaid, or with any letters denoting any such name.
Any stores not before enumerated, whether similar to the above or not.	

The Employment of the Metropolitan Police.

In August 1860 it appeared expedient to employ certain of the constables belonging to the metropolitan police force not only in Her Majesty's yards and arsenal within the metropolitan police district, but also in such yards, and the principal stations of the War Department, and in their neighbourhoods, which are situate beyond the limits of such district. Whereupon the 23 & 24 Vict., c. 135, was passed, providing as follows:—

[1] The 18th section and the Schedule 2 referring to repealed Acts, are omitted.

Such number of constables of the metropolitan police as the Secretary of State may direct may be employed in Her Majesty's yards, &c.

The Commissioner of Police of the Metropolis from time to time may employ and authorize to act in Her Majesty's yards, and in the principal stations of the War Department, and within the limits hereinafter mentioned, such number of the constables belonging to the metropolitan police force as one of Her Majesty's Principal Secretaries of State shall direct, and such Commissioner, subject to the approbation of such Secretary of State, may replace such constables by as many additional constables as shall be from time to time required, and may frame such special orders and regulations for and in relation to the constables to be employed under this Act, and either in addition to or in substitution for any of the orders and regulations for the time being applicable to the police force within the metropolitan police district, as he shall from time to time deem expedient for preventing neglect or abuse and securing the efficiency of the constables so employed. 23 & 24 c. 135. s

Commissioner of metropolitan police may swear constables to act within Her Majesty's yards, &c., and within fifteen miles thereof.

The Commissioner of Police of the Metropolis may administer to any constable belonging to the metropolitan police force who may be appointed or employed as aforesaid an oath to execute the office of constable within all or any of Her Majesty's yards, or of the principal stations of the War Department, in any part of England and Wales, and within fifteen miles of such yards or stations; and every constable so sworn shall have the powers and privileges and be liable to the duties and responsibilities of constable within the yards, stations, and limits for which he is so sworn, as well on seas as in harbours and havens, and on rivers and other waters as on land, and shall act within such yards, stations, and limits as fully as in any part of the metropolitan police district: provided always, that the powers and privileges of the constables of the metropolitan police, when without the yards, naval and marine hospitals and infirmaries, and marine barracks or stations, and not on board or in any ship, vessel, or boat belonging to Her Majesty or in Her Majesty's service, shall only be used in respect of the property of the Crown, or of persons subject to naval or marine or military discipline. *Ibid*, sec.

The word "yards."

The word "yards" where mentioned in this Act, shall mean Her Majesty's dockyards, Her Majesty's victualling yards, and Her Majesty's steam factory yards; and the word "stations" shall mean only the principal stations of Her Majesty's War Department and the central arsenal when the same shall be hereafter created. *Ibid*, se

In 1861 it was deemed expedient to give further protection to the metropolitan police force employed in Her Majesty's yards and military stations when in the execution of their duty, whereupon this provision was enacted by the 24 & 25 Vict., c. 51, sec. 3:—

Penalty for assaulting, &c. police when in execution of their duty.

If any person shall assault or resist any constable belonging to the metropolitan police force acting in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being summarily convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said *Ibid*, se

justices shall think meet, or, in the discretion of the justices before whom he is convicted, may be imprisoned for any term not exceeding one calendar month; and the said justices are hereby authorized to issue warrants of distress to levy any such sum or sums by distress and sale of the offender's goods; and every such sum which shall be so paid or levied shall be applied as the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral, or the Principal Secretary of State for the War Department, shall direct, any law, statute, charter, or custom to the contrary notwithstanding. Application of penalties.

B. THE SURVEYOR-GENERAL OF THE ORDNANCE.

The War Office Act, 1870 (33 and 34 Vict., c. 17), authorizes one of Her Majesty's Principal Secretaries of State from time to time to approve and at his pleasure to remove an officer to be styled the Surveyor-General of the Ordnance, and such officer shall not by virtue of such appointment, if sitting in the Commons House of Parliament, vacate his seat or, whether sitting in such House or not, be disqualified from being elected to or sitting or voting in the said House of Parliament. Act.

There shall be performed by the officer appointed under the Act such duties in relation to the War Office of Her Majesty's Government as Her Majesty may, by Order in Council, from time to time assign to him, and such Order in Council shall, if Parliament be sitting at the time of the making thereof, be laid before Parliament within fourteen days after the date thereof, and if Parliament be not then sitting, within fourteen days after the next meeting thereof.

On the 23rd day of June 1870, an Order in Council was made in these words:

"Whereas there was this day read at the Board a representation to the Lord President of the Council from the Right Hon. Edward Cardwell, one of Her Majesty's Principal Secretaries of State, dated the 21st day of June 1870, in the words following, viz.: Order in Council.

"'As by an Act passed in the present Session for making further provision relating to the management of certain departments of the War Office, it is enacted that one of Her Majesty's Principal Secretaries of State may from time to time appoint, and at his pleasure remove, an officer styled the Surveyor-General of the Ordnance, and that his duties in relation to the War Office shall be assigned to him by Order in Council, I have the honour to request that your Lordship will be pleased to submit for the approval of Her Majesty in Council that (subject

to the approval of the Secretary of State for War and to his responsibility for the administration of the Royal authority and prerogative in respect of the army) the said Surveyor-General of the Ordnance shall be charged:

Duties.

"'With providing, holding, and issuing to all branches of the army and reserve forces, food, forage, fuel and light, clothing, arms, accoutrements, munitions of war, and all other stores necessary for the efficient performance of their duties by such forces, of proper quality and pattern, and in proper quantities according to the regulations governing the provision, custody, and issue of such supplies.

"'With exercising a strict control over the expenditure of such supplies, and with seeing that they are properly accounted for by the several officers and others who may be charged with their custody, issue, and use.

"'With the custody of all buildings in which troops are quartered, and with alloting quarters.

"'With providing transport for troops, and directing land and inland water transport.

"'With preparing the estimates for all the above services, and causing the expenditure for them to be duly and carefully examined.

"'And with the duty of rendering such other advice and assistance as may be required of him by the Secretary of State for War.'

"Her Majesty, having taken into consideration the said representation was pleased, by and with the advice of Her Privy Council, to approve thereof."

APPENDIX.

1.

FORM OF CONVEYANCE[1] FROM 22 VICT., CAP. 12 (SCHEDULE A).

I of in consideration of the sum of paid to me by Her Majesty's Principal Secretary of State for the War Department, do hereby convey to the said Secretary of State, and his successors, all the lands and hereditaments set forth in the Schedule hereto, together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by law empowered to convey, to hold the premises to the said Secretary of State and his successors for ever on behalf of Her Majesty.

In witness whereof I have hereunto set my hand and seal, the day of in the year of Our Lord

The Schedule:

2.

FORM OF CONVEYANCE FROM 22 VICT., CAP. 12 (SCHEDULE B).

I of in consideration of the sum of pounds paid to me by Her Majesty's Principal Secretary of State for the War Department, do hereby sell, alienate, dispone, convey, assign, and make over from me, my heirs and successors, to the said Secretary of State, and his successors for ever, all the lands and heritages set forth in the Schedule hereto, together with all rights and pertinents thereto belonging, and all such right, title, and interest in and to the same as I and my aforesaids are or shall become possessed of or are empowered to convey [*here insert the condition (if any) of the conveyance, and a registration clause for preservation and diligence, and a testing clause, according to the form of the law in Scotland*].

The Schedule:

[1] See p. 11, *ante*.

3.

NOTICE THAT LANDS, BUILDINGS, HEREDITAMENTS, OR EASEMENTS, ARE REQUIRED TO BE TAKEN FOR THE PUBLIC SERVICE, UNDER "THE DEFENCE ACT, 1842."[1]

To or other the Owner or Owners of the mentioned in the Schedule to this Notice.

On behalf of Her Majesty's Principal Secretary of State for the War Department, I hereby give you notice that he requires for the Public Service all the mentioned and set out in the Schedule hereto annexed, and delineated and coloured in the Map or Plan herewith left, which premises are situate in the parish of , in the county of , and that he is willing, and hereby offers, to pay you the sum of as the consideration for the absolute purchase thereof; and I further give you notice that if you refuse to accept that sum as the consideration money aforesaid, during the space of fourteen days next after the delivery of this Notice to you, the said Principal Secretary will take all such measures as may be necessary, pursuant to the powers and provisions of one or all of the several Acts of Parliament hereinafter named, that is to say, the Defence Act, 1842, the Ordnance Board Transfer Act, 1855, and the 22 Vict., c. 12, for obtaining immediate possession of such and for causing a jury to be summoned to find the compensation to be paid by the said Principal Secretary for the absolute purchase thereof.

Dated this day of 18

THE SCHEDULE HEREINBEFORE REFERRED TO.

No. on accompanying Plan.	Description.	Cultivation.	Quantity. A.	R.	P.

4.

CERTIFICATE OF TWO OF HER MAJESTY'S DEPUTY LIEUTENANTS.[2]

County of to wit

We the Undersigned being two of Her Majesty's Deputy Lieutenants of, in, and for, the County of

[1] See p. 18, *ante*.

[2] See p. 23, *ante*.

Do hereby certify that we have this day viewed certain land, buildings, and hereditaments, situate at in the County of and which are mentioned and set out in a certain notice bearing date the day of one thousand eight hundred and and are delineated in the Plan referred to by such notice, which said notice and plan are produced before us by as Agent of Her Majesty's Principal Secretary of State for the War Department. And we have examined into the necessity and expediency of the said piece of land, buildings, and hereditaments, being taken by the said Principal Secretary of State on behalf of Her said Majesty, the same being wanted for the Public Service. And we do in pursuance of the statutes in that behalf hereby also certify that it is necessary and expedient that the said land, buildings, and hereditaments, should be taken by and on behalf of the said Principal Secretary of State for the Public Service. -

Given under our hands and seals at in the said County this day of one thousand eight hundred and

(L.S.)
(L.S.)

5.

Warrant of Lords Commissioners of Treasury.[1]

Whereas it hath been reported to the Lords Commissioners of Her Majesty's Treasury by Her Majesty's Principal Secretary of State for the War Department, that certain lands, buildings, and hereditaments, situate at in the County of are required to be taken by the said Principal Secretary for the Public Service under the provisions of the several Acts of Parliament hereafter mentioned, or some or one of them (that is to say), the Defence Act, 1842; the Ordnance Board Transfer Act, 1855; and an Act of the 22nd Vict., Chapter 12.

And whereas by a Certificate under the hand and seal of two of Her Majesty's Deputy Lieutenants in and for the said County of dated the day of one thousand eight hundred and it hath been certified that it is necessary and expedient that such lands, buildings, and hereditaments, should be taken by and on behalf of the said Principal Secretary for the Public Service. Now, we the undersigned, being two of the Lords Commissioners of Her Majesty's Treasury, do by this Warrant under our hands authorize the taking of such land, buildings, and hereditaments as are mentioned and described in the said Certificate by the said Principal Secretary under the authority and for the purposes of the before mentioned Acts.

Given under our hands this day of one thousand eight hundred and

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[1] See p. 23, *ante*.

6.

WARRANT OF TWO JUSTICES.[1]

County of to wit.

To of Gentleman, of the same place, Gentleman, and to Her Majesty's Principal Secretary of State for the War Department, and to his Agent, and to all Her Majesty's Peace Officers in and for the said County, and all others whom it may concern.

WHEREAS it hath been this day shown to us that Her Majesty's Principal Secretary of State for the War Department hath caused a certain notice, in writing, and a plan therein referred to, to be given you, the above or left at your usual place of abode; which notice was in the words and figures, or to the purport and effect following (that is to say):—

(*Notice* 3 *set out verbatim.*)

And whereas in and by a certain Certificate (No 4) under the hands and seals of two of Her Majesty's Deputy Lieutenants of, in, and for the County of bearing date the day of One thousand eight hundred and . They the said as such Deputy Lieutenants as aforesaid did thereby certify that they had that day viewed the said last-mentioned lands, buildings, and hereditaments, and had examined into the necessity and expediency of the same being taken by the said Principal Secretary of State for the War Department, on behalf of Her Majesty, and they did, in pursuance of the Statutes in that behalf, thereby also certify that it was expedient and necessary that the said lands, buildings, and hereditaments, should be taken by the said Principal Secretary for the War Department, the same being required for the Public Service: And whereas in and by a certain warrant (No. 5) under the hands of two of the Lords Commissioners of Her Majesty's Treasury, bearing date the day of One thousand eight hundred and the said Lords Commissioners did authorize the taking of such lands, buildings, and hereditaments as are mentioned and described in the said Certificate: And whereas it hath also been shown to us that for the space of fourteen days next after the said notice had been given you, the above-named or left at your usual place of abode as aforesaid, you the said have refused to accept such sum of money as was thereby offered by the said Principal Secretary as the consideration for the absolute purchase of the lands, buildings, and hereditaments therein mentioned: And whereas application hath been made unto us the said and as such Justices of the Peace as aforesaid, by and on behalf of the said Principal Secretary of State for the War Department, that he or the above-named who hath been appointed by him for that purpose may be put into immediate possession of the said premises, and that a Warrant may be granted by us to deliver the possession thereof accordingly: Now we the said and as such Justices of the Peace as aforesaid, in pursuance of

[1] See p. 19, *ante*.

the Statutes in that behalf, do hereby by this our Warrant under our hands and seals command and require that possession of the said lands, buildings, and hereditaments be forthwith delivered by you, the said and to the Principal Secretary of State for the War Department, or to the said on his behalf: And we do hereby also authorize the said Principal Secretary for the War Department, and the said on his behalf to enter into and upon and to take immediate possession of the said premises as aforesaid.

Given under our hands and seals at in the said County this day of One thousand eight hundred and

(L.S.)
(L.S.)

7.

Warrant to Sheriff.[1]

County of Suffolk } To Sir Robert Affleck Bart.
to wit } Sheriff of the County of Suffolk.

Whereas we the undersigned Barrington Chevallier Esquire and Edward Packard Esquire being two of Her Majesty's Justices of the Peace in and for the County of Suffolk in and by a Warrant under our hands and seals bearing even date herewith have in pursuance of the Statutes in that behalf commanded and required that possession of certain land buildings and hereditaments at Walton-with-Trimley in the County of Suffolk alleged to belong to George Tomline be forthwith given by the said George Tomline to the Principal Secretary of State for the War Department, the said premises being required by the said Principal Secretary for the Public Service. Now we the said Justices in pursuance of the Statutes in that behalf do by this Warrant under our hands and seals require you the Sheriff of the said County of Suffolk to summon a Jury between the said parties on Wednesday the 15th day of December instant at the Shire Hall in the Town of Ipswich in the said County at the hour of ten o'clock in the forenoon of the same day for the purpose of finding and assessing the compensation to be paid by the said Principal Secretary to the said George Tomline for the absolute purchase of the said land and premises of which we the said Justices have so ordered possession to be given as aforesaid Given under our hands and seals at Ipswich in the said County the 30th day of September 1875.

Barrington Chevallier. (L.S.)
Edward Packard. (L.S.)

8.

Return of the Verdict.[2]

In pursuance of the Warrant of the undersigned Barrington Chevallier Esquire and Edward Packard Esquire then at the time of the making of the said Warrant and from thence hitherto and still

[1] See p. 19, *ante*. [2] See p. 22, *ante*.

being two of Her Majesty's Justices of the peace in and for the County of Suffolk dated the 30th day of September 1875 a copy of which is hereunto annexed marked A[1] Alexander Francis Nicolson &c Jurors duly qualified in that behalf were duly and according to the provisions of the Statutes in that case made and provided summoned and did duly attend at Ipswich in the county aforesaid and were duly sworn as the Jury for the purposes in the said Warrant mentioned and as such Jury they did in the presence of Enoch G. Salisbury Esquire and Joseph F. B. Firth Esquire as Counsel for the said George Tomline in the said Warrant mentioned and Henry Hawkins Esquire one of Her Majesty's Counsel and Charles Synge Christopher Bowen Esquire as Counsel for the said Principal Secretary in the said Warrant mentioned on the 4th 5th 6th 7th and 8th days of January 1876 hear all the witnesses and evidence produced before them on either side And the Jurors aforesaid upon the oaths find that the sum of 1,939*l.* is the compensation to be paid and which is to be and shall be paid by the said Principal Secretary to the said George Tomline for the absolute purchase of the lands hereditaments and premises mentioned in the said Warrant.

Given under our hands and seals

ROB[T]. AFFLECK, B[T]. (L.S.)
Sheriff of the County of Suffolk in the said Warrant mentioned.
BARRINGTON CHEVALLIER. (L.S.)
EDW[D]. PACKARD. (L.S.)

9.

ORDER TO SHOW CAUSE WHY PROCEEDINGS SHOULD NOT BE RETURNED TO COURT.

In the High Court of Justice.

Exchequer Division.

(QUEEN'S REMEMBRANCER'S OFFICE.)

Saturday, the 15th day of January 1876.

IN THE MATTER of the Act of Parliament, 5th and 6th Victoria, Chapter 94;

AND

IN THE MATTER of the Act of Parliament, 18th and 19th Victoria, Chapter 117;

AND

IN THE MATTER of the Act of Parliament of the 22nd Victoria, Chapter 12;

AND

In the matter of certain Lands, Benthills, and Foreshore, in the parish of Walton-with-Trimley, in the county of Suffolk, lately belonging to George Tomline, of, &c., taken for the Public Service by or on behalf of Her Majesty's Principal Secretary of State for the War Department.

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[1] See p. 7, *ante*.

Upon hearing Henry Manisty Esq., one of Her Majesty's Counsel on behalf of the said George Tomline, suggesting to the Court that the said George Tomline had reason to be dissatisfied with the verdict of the jury assessing the compensation to be paid by the Principal Secretary of State for the War Department to the said George Tomline for the absolute purchase of the above named lands and premises, and mentioned in the joint affidavit of the said George Tomline and William Henry Whitfield, and the exhibits therein referred to, and upon reading the said affidavit, it is ordered by the Court that the Sheriff of the County of Suffolk and Her Majesty's Principal Secretary of State for the War Department do within a week after service of this order, or a copy thereof, show cause why the proceedings which have been had herein, and the verdict of the Jury assessing the compensation to be paid to the said George Tomline should not be returned into this Court. And it is further ordered that service of this order on the Solicitor to the War Office be deemed good service on Her Majesty's Principal Secretary thereof.

W. F. POLLOCK,
Queen's Remembrancer.

10.

RULE TO RETURN PROCEEDINGS.

In the High Court of Justice.

Exchequer Division.

(QUEEN'S REMEMBRANCER'S OFFICE.)

Friday, the 4th day of February 1876.

(*Title as in form* 9, *ante.*)

Upon the Motion of Henry Manisty, Esq., one of Her Majesty's Counsel for the said George Tomline, praying that an Order of this Court, made in these matters on the 15th day of January 1876, may be made absolute, and upon reading the affidavit of William Thomas Davies, and upon hearing Henry Hawkins, Esq., one of Her Majesty's Counsel for the Principal Secretary of State for the War Department.

IT IS ORDERED by the Court that the said Order be, and the same is hereby made absolute, and that the proceedings which have been had in assessing the compensation to be paid by the Principal Secretary of State for the War Department to the said George Tomline for the absolute purchase of the abovenamed lands and premises, and mentioned in the joint affidavit of the said George Tomline and William Henry Whitfield, filed therein, and exhibits therein referred to, and also the Verdict of the Jury assessing such compensation, be returned into this Court within a week after service of a copy of this Order upon the Sheriff of the County of Suffolk, the Principal Secretary of State for the War Department, and Barrington Chevallier and Edward Packard, Esqrs., two Justices of the Peace for the said County of Suffolk, who signed the Warrant requiring the Sheriff to summon such Jury for the purpose aforesaid.

W. F. POLLOCK,
Queen's Remembrancer.

11.

RULE NISI FOR NEW TRIAL.

In the High Court of Justice.

Exchequer Division.

(QUEEN'S REMEMBRANCER'S OFFICE.)

Wednesday, the 26th day of April 1876.

(*Title as in form* 9, *ante.*)

Upon the motion of Henry Manisty, Esq., one of Her Majesty's Counsel, on behalf of the said George Tomline, and upon reading the joint affidavit of the said George Tomline and William Henry Whitfield, sworn on the 14th day of January 1876, and the exhibits therein referred to, an Order of this Court, dated the 15th January 1876; the affidavit of William Thomas Davies, sworn on the 19th day of January 1876; a further order of this Court, dated the 4th February 1876; the proceedings which have been had herein and the Verdict of the Jury returned into this Court; also a further affidavit of the said George Tomline, sworn on the 24th of February 1876; the affidavit of James Beal and the joint affidavit of Marshall Herbert Lowe, Walter John King, Charles Hammond, and Frederick William Wilson:

It is ordered by the Court that Her Majesty's Principal Secretary of State for the War Department do, within a week after service of this Order, or a copy thereof, show cause why the suggestion which has been made to this Court by the said George Tomline, that he, the said George Tomline had, reason to be dissatisfied with the Verdict of the said Jury, should not be entered on the before-mentioned proceedings, on the grounds.—

1st. That the verdict was against the weight of the Evidence as to the amount of compensation.

2nd. That the Assessor misdirected the Jury as to the right of the Crown to pull down the Pier or Jetty erected on Lot 5; also as to the principle on which that Lot, including the Jetty, should be valued.

3rd. That the Assessor misdirected the Jury in telling them that in point of law Colonel Tomline was not entitled to anything in respect of the Shingle on Lot 1, and in telling them to say what sum he was entitled to, assuming him to be entitled to something.

4th. On the ground that the Jury ought to have been informed as to the right of the Crown to use guns which would cause injury to buildings erected or to be erected on Lots 2, 3, 4, 5, 6, or 7, and that the summing-up in that respect was calculated to mislead the Jury.

And that upon the entry of the said suggestion a Writ may issue, directed to the Sheriff of the County of Suffolk, commanding him to summon a Special Jury, duly qualified according to Law, to appear before the Justices of Assize at the Assizes to be holden at Ipswich, in and for the said County of Suffolk, to ascertain and assess the compensation to be paid to the said George Tomline for the absolute

purchase of the before-mentioned lands, benthills and foreshore; the nomination and reduction of the said Jury to be taken before the said Sheriff in the presence of the respective parties: And it is further ordered that service of this Order on the Solicitor for the War Department be deemed good service on Her Majesty's Principal Secretary of State for War.

W. F. POLLOCK,
Queen's Remembrancer.

12.

REQUEST TO ACCOUNTANT-GENERAL, COURT OF CHANCERY, FOR DIRECTIONS TO PAY PURCHASE-MONEY INTO BANK OF ENGLAND, UNDER SECTION 25, DEFENCE ACT, 1842.

To the Accountant-General of the Court of Chancery.

PURSUANT to an Act of Parliament passed in the 5th and 6th years of the reign of Her present Majesty, intituled "An Act to consolidate and amend the laws relating to the services of the Ordnance Department, and the vesting and purchasing of lands and hereditaments for those services and for the defence and security of the realm," and of another Act of Parliament passed in the 18th and 19th years of the reign of Her present Majesty, intituled "An Act for transferring to one of Her Majesty's Principal Secretaries of State the powers and estates vested in the Principal Officers of the Ordnance," and of another Act passed in the 22nd and 23rd years of the reign of Her present Majesty, intituled "An Act to regulate the office of Queen's Remembrancer and to amend the practice and proceedings on the revenue side of the Court of Exchequer," you will please to give your directions for Her Majesty's Principal Secretary of State for the War Department to pay into the Bank of England the sum of
to be placed to your account as Accountant-General and to the credit of *exparte* "An Act to consolidate and amend the laws relating to the services of the Ordnance Department and the vesting and purchases of lands and hereditaments for those services and for the defence and security of the realm." The account of * * *

Solicitor to the War Department,
186 .

13.

REQUEST TO ACCOUNTANT-GENERAL, COURT OF CHANCERY, FOR DIRECTIONS TO PAY PURCHASE-MONEY INTO BANK OF ENGLAND, UNDER SECTION 20, DEFENCE ACT, 1860.

To the Accountant-General of the Court of Chancery.

PURSUANT to the Defence Act, 1860, and the Defence Act, 1842, as amended by Section 8 of the Act of the Session holden in the 22nd and 23rd years of the reign of Her Majesty, Chapter 21, I request your directions for Her Majesty's

Principal Secretary of State for the War Department to pay into the Bank of England the sum of to be placed to your account there as Accountant-General in the matter of the Defence Act, 1860, to the credit of the sum of part thereof being the compensation payable by the said Secretary of State in respect of required to be taken absolutely under the powers and provisions of the first-mentioned Act, and in respect of required to be kept free from buildings and other obstructions for the purposes of the said Act, and the sum of residue thereof being an equivalent for the expenses consequent on such payment.

Solicitor to the War Department,
186 .

14.

NOTICE CONVENING COMMONERS TO SETTLE COMPENSATION FOR COMMON RIGHTS.[1]

Cleygate Common, Surrey.

WHEREAS Cleygate Common situate in the parish of Ash in the county of Surrey (as mentioned and described in the Schedule hereto annexed) and the soil thereof has been purchased by and is vested in Her Majesty's Principal Secretary of State for the War Department subject to commonable and other rights which the said Secretary of State is desirous of extinguishing under the provisions of the Statutes hereinafter mentioned and referred to—

Now therefore this is to give notice that the said Principal Secretary of State in pursuance of the powers of the "Land Clauses Consolidation Act 1845" and of an Act of the 17th and 18th Vict. c. 67 to facilitate the purchase of common commonable and other rights by the Principal Officers of Her Majesty's Ordnance and of the "Ordnance Board Transfer Act 1855" and of an Act of the 22nd Vict. c. 12 hereby calls or convenes a meeting to be held on Wednesday the 11th day of July 1877 at 12 o'clock at noon at the "Bridge House Hotel" Wharf Bridge of all parties entitled to commonable and other rights over or in the said piece of land for the purpose of the said parties appointing a Committee (not exceeding five in number) to treat with the Secretary of State for the compensation to be paid for the extinction of such commonable or other rights.

Dated this 20th day of June 1877.

By order of the said Principal Secretary
CHARLES M. CLODE.

THE SCHEDULE.

All that land in the parish of Ash in the county of Surrey known as Cleygate Common parcel of the Manor of Cleygate in the same county and all other lands common or waste of such manor.

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[1] See pp. 31 and 32, *ante*.

15.

Resolutions of Meeting of Commoners.[1]

Cleygate Common.

At a meeting duly convened by public advertisement inserted by order of Her Majesty's Principal Secretary of State for the War Department in the "Surrey County Chronicle" newspaper, on the 23rd and 30th days of June 1877, and also in the "Surrey Advertiser" newspaper on the same days, and by notice affixed to the door of the Parish Church of St. Peter, Ash, in the county of Surrey, on the 26th day of June 1877, held on Wednesday, the 11th day of July 1877, at the Bridge House Hotel, in the neighbourhood of the land hereinafter-mentioned. Present, William Parrott, Chairman, and others.

On behalf of themselves and all other persons claiming to be entitled to commonable and other rights over or in the land hereinafter-mentioned and described, which said land is required by the said Secretary of State for public purposes under the powers and provisions of the Defence Act, 1842.

The said William Parrott having been first appointed to preside at the said meeting as chairman thereof, it was resolved that Edward Joseph Halsey, William Parrott, John Steadman, George Fladgate, William Wells, being persons entitled to commonable and other rights over or in the land hereinafter-mentioned and described should be and they were accordingly, in pursuance of the Lands Clauses Consolidation Act, 1845, and the 17th and 18th Vict., c. 67, to facilitate the purchase of common, commonable, and other rights by the Principal Officers of Her Majesty's Ordnance, appointed by the other persons so present at the said meeting to be a Committee to treat with the said Secretary of State (in whom, by virtue of the Ordnance Board Transfer Act, 1855, are vested the powers conferred by the said Acts) for the compensation to be paid for the extinction of such commonable and other rights over all that land in the parish of Ash, in the county of Surrey, forming part of Cleygate Common, parcel of the Manor of Cleygate in the same county, and all other land, common, or waste of such manor; and to enter into an agreement with the said Secretary of State for such compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves, and all other parties interested in such rights; and also to receive the compensation that shall be agreed to be paid, and to give an effectual receipt for the same pursuant to and in the manner prescribed by the said Lands Clauses Consolidation Act, 1845, and to have and exercise all such other powers and authorities as are vested in Committees of a like nature under and by virtue of the last-named Act.

Dated this 11th day of July 1877.

William Parrott,
Chairman, on behalf of Committee.

We, the undersigned, hereby agree to act as such Committee as aforesaid.

Edward J. Halsey.	John Stedman (senior).
William Parrott.	Wm. Wells.
Geo. Fladgate.	

[1] See p. 32, *ante*.

16.

AGREEMENT FOR EXTINCTION OF COMMONABLE RIGHTS.[1]

ARTICLES OF AGREEMENT made this Eighteenth day of May. One thousand Eight hundred and Seventy-eight, between Edward Joseph Halsey, of 79, Cornhill, in the City of London, Esquire, William Parrott, of Normandy, in the parish of Ash, in the County of Surrey, farmer, John Stedman, of Normandy aforesaid, blacksmith, George Fladgate, of Henley Park, in the parish of Ash, aforesaid, farmer, and William Wells, of Rydes Hill, Worplesdon, in the said County of Surrey, Gentleman, of the one part. and Her Majesty's Principal Secretary of State for the War Department of the other part.

WHEREAS the common or waste lands situate in the parish of Ash, in the said County of Surrey, and parcel of the Manor of Cleygate in the same County, which are described in the schedule hereto, including the right to the soil thereof, and also the said Manor of Cleygate, have been purchased by and are now vested in the said Secretary of State, subject, nevertheless, as to the said hereditaments described in the schedule to certain rights of common, commonable, and other rights exercisable therein by the said parties hereto of the first part and the other persons interested therein. And whereas the said Secretary of State, in pursuance of the powers of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and in pursuance and exercise of the powers and authorities given to or vested in him in and by a certain Act of Parliament made and passed in the 17th and 18th years of the reign of Her present Majesty the Queen, cap. 67, entitled "An Act to facilitate the purchase of common, commonable, and other rights by the principal officers of Her Majesty's Ordnance," and in and by a certain other Act of Parliament, made and passed in the 18th and 19th years of Her Majesty's reign, cap. 117, entitled "An Act transferring to one of Her Majesty's Principal Secretaries of State, the powers and estates vested in the principal Officers of the Ordnance," and in and by a certain other Act of Parliament, made and passed in the 22nd year of Her Majesty's reign, cap. 12, entitled "An Act to make further provision for the purchase of common and other rights by Her Majesty's Principal Secretary of State for the War Department, and in relation to land vested in or taken by such Secretary of State," and of all other powers and authorities given to or vested in him by any other Act or Acts of Parliament, by such public advertisements, and with such notices as are required by the said Lands Clauses Consolidation Act, 1845, in that behalf duly convened a meeting on the Eleventh day of July, One thousand Eight hundred and Seventy-seven, at the Bridge House Hotel, Wharf Bridge, in the Parish or Hamlet of Frimley, in the said County of Surrey (being a convenient place in the neighbourhood of the said common or waste land) of all persons entitled to commonable or other rights exercisable over or in the said common or waste lands and hereditaments described in the said schedule hereto, for the purpose of treating with him for the compensation to be paid for the extinction of such commonable and other rights. And whereas the said meeting duly appointed the said parties hereto of the first part to be a committee of the persons entitled to the said commonable and other rights, according to the provisions of the said Acts of Parliament, to treat with

[1] See p. 32, *ante*.

the said Secretary of State for the purposes aforesaid, and to enter into an agreement with him for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto for and on behalf of themselves and all other parties interested therein, and also to receive the compensation that should be agreed to be paid, and to give an effectual receipt for the same, pursuant to and in the manner prescribed by the said Lands Clauses Consolidation Act 1845, and to have and exercise all such other powers and authorities as are vested in committees of a like nature, under and by virtue of the last-mentioned Act. And whereas the said Secretary of State has agreed with the parties hereto of the first part to pay to them or any three of them the costs and expenses which are hereinafter mentioned, and to make such provision with respect to the highways in the said parish of Ash as is hereinafter contained. Now these presents witness that they the said parties hereto of the first part, as such committee as aforesaid, and for and on behalf of themselves and all other persons interested in the said commonable and other rights exercisable over the said hereditaments described in the said schedule hereto as aforesaid, do hereby agree to accept, and the said Secretary of State doth hereby agree to pay to the said parties hereto of the first part, or any three of them, the sum of Twelve thousand pounds sterling as the full compensation payable for the extinction of all the said commonable and other rights whatsoever exercisable over or in the said hereditaments described in the said schedule hereto by the said parties hereto of the first part, and the other persons interested therein as aforesaid, including any commonable or other rights other than rights in the soil to which the said Secretary of State may be entitled as Lord of the said Manor over or in the same hereditaments. And it is hereby further agreed that the said sum of Twelve thousand pounds shall be paid within twenty-one days from the date of these presents, and that on payment thereof to the said parties hereto of the first part, or any three of them, all such commonable and other rights as aforesaid shall thenceforth be wholly extinguished, and the said common or waste lands and hereditaments and premises described in the said schedule hereto shall thenceforth and for ever thereafter be held by the said Secretary of State, his successors and assigns, freed and absolutely discharged from all the said commonable and other rights over or in the same hereditaments and premises or any of them, or any part or parts thereof respectively. And it is hereby further agreed by and between the parties hereto, that the said Secretary of State, in addition to the said sum of Twelve thousand pounds to be paid as such compensation as aforesaid, shall pay to the said parties hereto of the first part or any three of them the costs of the purchase of the said commonable and other rights, or which shall have properly been incurred in consequence thereof, including the costs of the solicitor to the parties hereto of the first part of and incident to the said purchase, and of and incident to this agreement, and the preparation and the execution thereof, and also the fees and charges of the two surveyors who have been employed in and about the assessment of the said compensation (the amount of such surveyor's fees and charges to be settled in case of difference by a reference to one of the taxing masters of the Supreme Court of Judicature in the manner provided by the Lands Clauses Consolidation Act 1869. Provided always, and the said Secretary of State, if and so far as he can lawfully so do without prejudice to the extinction of the said commonable and other rights as hereinbefore provided, having regard to the provisions of the said Acts of Parliament respectively, doth hereby agree that it shall be

lawful for the Highway Board or other the body from time to time charged with the repair of the highways in the said parish of Ash, or the surveyor of such body, to take from time to time for the repair of the same roads, but not for any other purposes, gravel and stone from such part or parts of the said common or waste lands and hereditaments described in the said schedule hereto as shall from time to time be appointed by or on behalf of the said Secretary of State. In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

The Schedule to the above-written Agreement.

All that tract of common or waste land situate in the parish of Ash, in the County of Surrey, known as Cleygate Common, parcel of the Manor of Cleygate, in the same county, and all other (if any) the lands, parcel of the same Manor, forming part of the waste thereof, and subject to rights of common exercisable thereon by the tenants of the same Manor.

Signed, sealed, and delivered by the above-named Edward Joseph Halsey, William Parrott, John Stedman, and George Fladgate, in the presence of

EDWARD J. HALSEY. (L.S.)
WILLIAM PARROTT. (L.S.)
JOHN STEDMAN. (L.S.)
GEO. FLADGATE. (L.S.)

ROB$^{T.}$ EDM. MELLERSH, *Solicitor, Godalming, Surrey.* (L.S.)

17.

NOTICE UNDER SECTION 27, DEFENCE ACT, 1842.[1]

Colchester, 8
1097

As to Stoppage of Footpath.

Her Majesty's Principal Secretary of State for the War Department, pursuant to the powers of the Defence Act, 1842, has stopped up a portion of the public footpath at Bury St. Edmunds, in the county of Suffolk, leading from the Newmarket Road to the Village of Farnham, viz., the path on the East and North sides of Mr. John Lee's property recently purchased by the War Department, and has provided and made in lieu thereof another public footpath in continuation of the path on the West side of the Grammar School property, and along the West side of the said property purchased from Mr. John Lee, to meet the Newmarket Road at the south-west angle of the said property. Dated this seventh day of July, One thousand eight hundred and seventy-six.

By Order of the said Principal Secretary of State.

C. M. CLODE.

NOTE—Copies of the notice and of the Defence Act, 1842, are usually lodged with the Clerk of the Peace.

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[1] See p. 33, *ante*.

18.

Deed of Dedication of Burial Ground.[1]

Whereas Her Majesty's Principal Secretary of State for the War Department is entitled to the fee of all that piece or parcel of land situate, lying, and being in the parish of Aldershot, in the county of Southampton, containing 3 A. 2 R. 8P., or thereabouts, as the same is more particularly delineated in the plan hereto annexed, and therein coloured green, in trust for Her Majesty, her heirs, and successors: And whereas the said Secretary of State, in pursuance of the trusts vested in him by certain Acts of Parliament, or otherwise, has set apart a certain portion of the said lands for a graveyard or burial ground, for the interment only of such of Her Majesty's troops, or others belonging to Her Majesty's Service, as shall die at the Camp at Aldershot: And whereas the said Secretary of State has applied to and requested the Right Rev. Charles Richard, Lord Bishop of Winchester, to consecrate the said burial ground or graveyard, which he has consented to do upon the same being set apart by the said Secretary of State for ever for the interment of such deceased troops as aforesaid;

Now, know all men by these presents that I, Her Majesty's Principal Secretary of State for the War Department, for myself and my successors in office, have set apart, dedicated, and settled, and by these presents do set apart, dedicate, and settle, all the aforesaid piece or parcel of land as delineated on the map or plan hereto annexed, and coloured green, containing 3 A. 2 R. 8 P., or thereabouts, and declare that the same has been set apart, dedicated, and settled, and shall for ever be and remain and continue for a graveyard or burial ground for the interment only of such of Her Majesty's troops, or others in Her Majesty's Service, or belonging to any Military Department of Her Majesty as shall die in said Camp at Aldershot, or the neighbourhood thereof, and shall never hereafter be used for any common or profane use or purpose whatsoever, and to be consecrated by the name of "The Military Burial Ground," Aldershot. In witness whereof I have hereunto set my hand and affixed my seal this day of A.D. 1856.

19.

Deed of Dedication of Ground for a Church.

Whereas Her Majesty's Principal Secretary of State for the War Department is entitled to the Fee (in trust of Her Majesty) of a certain piece or parcel of land situate, lying, and being in the parish of Woolwich, in the County of Kent, whereon a building has been lately erected, and which is intended to be used as a Church or Chapel, wherein Divine Service may be performed, and which said piece or parcel of land is more particularly delineated in the plan hereto annexed, and therein coloured green, in trust for Her Majesty, her heirs and successors. And whereas the said Principal Secretary of State, in pursuance of the trusts vested in him, by certain Acts of Parliament, or otherwise, has set apart the said piece or parcel of land, and the Church thereon erected for the performance of Divine Worship, for the use only of

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[1] See p. 41, *ante*.

persons belonging to, or employed in Her Majesty's service at Woolwich aforesaid. And whereas the said Secretary of State has applied to, and requested the Right Reverend Archibald Campbell, Bishop of London, to consecrate the said church, which he has consented to do upon the same being set apart by the said Secretary of State for ever, for the performance of Divine Worship. Now know all men by these presents that I, Her Majesty's Principal Secretary of State for the War Department, for myself and my successors in office, have set apart, dedicated and settled, and by these presents do set apart, dedicate, and settle, all that the aforesaid piece or parcel of land as delineated on the map or plan hereto annexed and coloured green, together with the Church erected thereon. And declare that the same has been set apart, dedicated, and settled, and shall for ever be and remain and continue as a Church for the performance of Divine Worship according to the rules and ceremonies of the United Church of England and Ireland, and shall never hereafter be used for any common or profane use or purpose whatsoever. And to be consecrated by the name of "The Church of the Holy Trinity." In witness whereof I have hereunto set my hand and affixed my seal this day of in the year of our Lord 1863.

20.

NOTICE REQUIRING REMOVAL OF BUILDINGS.[1]

WHEREAS the lands occupied by you in the parish of in the county of are included in a certain declaration in writing made under the provisions of "The Defence Act, 1860," by Her Majesty's Principal Secretary of State for the War Department, and dated the day of 18 , and are numbered in the Schedule and Plan thereto annexed, and are required to be kept free from buildings and other obstructions for the purposes of the said Act. And whereas copies of such Declaration, Schedule, and Plan may be seen on application to the Clerk of the Peace for the said county, or to the Parish Clerk of the said Parish. And whereas under the provisions of "The Defence Act, 1860," no building or other structure (other than barns, hovels, or other like structures of wood) may be made or erected on the said land numbered as aforesaid, and further, by the same Act it is enacted that it shall be lawful for the said Secretary of State at any time, and from time to time to enter and pull down any buildings or structures (other than as aforesaid) made or erected on the said land. And whereas the buildings or structures mentioned and set forth in the Schedule hereto annexed have been erected on the said land numbered contrary to the provisions of the said "Defence Act, 1860." Now notice is hereby given that you are required by Her Majesty's Principal Secretary of State for the War Department to pull down and remove the said buildings and structures forthwith, and that if the same buildings and structures are not pulled down and removed on or before the day of next, the said Secretary of State will enter upon the said land numbered and pull down the same buildings and structures thereon.

Dated this day of 18 .

Legal Secretary to the War Department.

To and all others whom it may concern.

[1] See pp. 43, 63, and 64, *ante*.

THE SCHEDULE.

The Buildings and Structures to be pulled down and removed under the Provisions of "The Defence Act, 1860."

Number on Declaration Plan.	Nature thereof.	Observations.

21.

POWER OF ATTORNEY TO REMOVE OBSTRUCTIONS.[1]

KNOW all men by these presents, that I, the undersigned, being Her Majesty's Principal Secretary of State for the War Department, do hereby make, constitute, and appoint in Her Majesty's Corps of Royal Engineers (the Commanding Royal Engineer for the district), and of in the said District, jointly, and each of them separately, to be the true and lawful Attorneys and Attorney for me, and in my name as Secretary of State forthwith, in accordance with the provisions of "The Defence Act, 1860," to enter upon the said lands mentioned and referred to in the Notice hereto annexed, and to pull down the building and structures thereon which are mentioned and set forth in the Schedule thereto annexed, and generally to do all lawful acts and things in entering upon the same lands and pulling down the said buildings and structures as effectually as I, the said Principal Secretary, might or could do if personally present; I, the said Principal Secretary, hereby confirming and agreeing to confirm whatsoever my said Attorneys or Attorney shall lawfully do in and about the premises. In witness whereof, I, the said Principal Secretary, have hereunto subscribed my hand and affixed my seal, this day of 18 .

Signed, sealed, and delivered by Her Majesty's Principal Secretary of State for the War Department in the presence of

Solicitor to the War Department.

[1] See pp. 43, 63, and 64, *ante*.

22.

AGREEMENT AS TO REMOVAL OF BUILDINGS.[1]

THIS INDENTURE, made the day of in the year of our Lord One thousand Eight hundred and between of in the county of of the one part and Her Majesty's Principal Secretary of State for the War Department of the other part. Whereas the said or claim to be entitled as[2] to certain lands in the parish of in the county of included in a certain declaration in writing made under the provisions of the Defence Act 1860 by Her Majesty's Principal Secretary of State for the War Department and dated the day of 18 and numbered in the schedule and plan thereto annexed and required to be kept free from buildings and other obstructions for the purposes of the said Act copies of which declaraton Schedule and plan were deposited with the Clerk of the Peace for the said county and with the Parish Clerk of the said Parish. And Whereas under the provisions of the Defence Act 1860 no building or other structure (other than barns hovels or other like structures of wood) may be made or erected on the said land and the said Secretary of State is empowered from time to time to enter and pull down any buildings or structures other than as aforesaid thereon. And Whereas the buildings or structures mentioned or set forth in the Schedule hereto annexed have been erected on the said land contrary to the provisions of the Defence Act 1860. And Whereas the said Principal Secretary was lately about to enter under the provisions of the said Act on the said land and to pull down the said buildings and structures thereon but has on the request of the said other part hereto agreed to defer for the present so doing on the said other part hereto entering into the covenants and agreements on h part hereinafter contained. Now therefore this indenture witnesseth that in consideration of the premises the said for h heirs executors administrators and assigns do hereby covenant with the said Principal Secretary his successors and assigns in manner following that is to say:—

1. The said covenantor h heirs or assigns or other the owners or occupiers of the aforesaid land will at any time hereafter at their own expense within seven days next after they or any of them shall by notice from the said Principal Secretary or his successors have been required so to do pull down the said buildings and structures mentioned in the said Schedule hereto and remove from off the said land the materials of the buildings and structures so pulled down and restore the site of such buildings and structures to the state it was in previous to the erection thereof

2. It shall be lawful for the said Principal Secretary or his successors at any time hereafter to enter upon and pull down the said buildings and structures mentioned in the said Schedule hereto as fully and effectually as he or they might have done if these presents had not been made or executed. And also to take possession of and sell by public auction or private contract and generally in such a way and

[1] See p. 44, *ante*.

[2] Tenant in fee simple or for years, &c.

manner as he or they shall think fit all or any of the materials of the building and structures so pulled down and thereout pay all costs and expenses of and attending the pulling down thereof or any such other acts as last mentioned rendering the surplus if any to the persons entitled thereto and able to give a discharge for the same.

3. The said Principal Secretary or his successors shall not be required to give to any person any previous notice of his or their intention to exercise the powers mentioned in or given by the last preceding clause it being however understood that as a matter of courtesy merely but not of obligation his and their power to enter upon the said land and to pull down the buildings thereon shall not be exercised without seven days previous notice to that effect given to some owner or occupier of the said land.

4. In the meantime and until the buildings and structures mentioned in the said Schedule hereto shall be pulled down as aforesaid the said covenantor h heirs and assigns or other the owners or occupiers of the aforesaid land shall pay to the said Principal Secretary and his successors by way of rent for allowing the same buildings and structures to remain the yearly sum of payable half-yearly on the day of and the day of in every year and if the said buildings and structures shall be pulled down on any day other than one of the aforesaid days then also a proportional part of such rent shall on such pulling down as aforesaid be paid from the then last day for payment of the said rent but it is hereby expressly declared that this present clause shall not be deemed to constitute a yearly tenancy between the parties hereto or to qualify any of the preceding provisions of these presents.

5. The covenantor h heirs or assigns or any owners or occupiers of the said land shall not have or prefer any claim or title whatsoever to any compensation for any loss or inconvenience any of them may sustain by reason of any such buildings or structures being pulled down or required so to be under the provisions of these presents or of the Defence Act 1860.

6. Lastly it is hereby expressly declared that these presents or anything herein contained shall not be deemed or construed in any way to abridge prejudice or affect any rights or powers whatsoever which under the Defence Act 1860 or any of the Acts therein referred to or otherwise howsoever the said Principal Secretary or his successors could or might exercise over or in respect of the aforesaid land or any buildings or structures thereon.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed sealed and delivered by the said
in the presence of

THE SCHEDULE.

23.

THE WAR DEPARTMENT STORES ACT, 1875.[1]

FORM UNDER SECTION 8 OF ACT.

Permitting the Search for Stores.

This is to permit and authorize Charles Hudson and John Jacobs, both of 58, High Street, Sheerness, in the county of Kent, fishermen, to gather and search for stores, and to creep, sweep, and dredge in such spaces or distances as are marked out and appropriated for ranges under the provisions of the Artillery Ranges Act 1862, and as lie outside the West, Middle, and East Shoebury black buoys, whether covered with water or not, also in the sea or tidal water within 1,000 yards of all or any of the batteries or forts situate at Sheerness in the county of Kent. Dated this day of 1875.

By order of Her Majesty's Principal Secretary of State for the War Department.

(Signed) J. CRAWFORD CAFFIN,
Director of Stores.

24.

FORMS UNDER THE "MILITARY MANŒUVRES ACT."[2]

Under Section 5.

FORM of appointment of those members of the Consultative Commission who were appointed under the hand of the Secretary of State for War:—

Under the powers vested in me by the Military Manœuvres Act, 187 , I hereby appoint_____to be one member of the Commission called in the said Act the Consultative Commission.

_____*th*_____187 .

(Signed) EDWARD CARDWELL.

25.

FORM of appointment, by the Officer in Command of the Forces, of the officers deputed by him to act in conjunction with the Consultative Commission:—

In virtue of the powers vested in me by the Military Manœuvres Act, 187 , I hereby appoint_____to act with the Consultative Commission in all such matters as are authorized in Section 5 of the said Act.

_____*th*_____, 187 .

(Signed) GEORGE.

[1] See p. 48, *ante*. [2] See p. 185.

26

THE form of delegation of powers to the several Committees:—

Subject to a power of revocation, which the Commission hereby reserve, the Commission hereby, in pursuance of the powers conferred upon it by the Military Manœuvres Act, 1872, delegates to the several Committees named in the Schedule hereto, all powers exercisable by the Consultative Commission in respect of the authorisation of Lands and Sources of Water and the protection of property, and do hereby empower each of the said Committees, and any two Members of such Committee, in such manner and within such Districts as the said Committees think expedient, from time to time, by order to authorise anything by the said Act directed to be authorised; and in particular to declare what enclosed lands are to be deemed to be authorised lands for the purposes of the said Act, and also by order to make regulations with respect to the protection of cattle and sheep, by securing the same in folds or farmyards, and with respect to any other matter or thing, which the said Committees may deem essential for the purposes of preventing damage to property, and for the more efficiently carrying into effect the purposes of the said Act.

(Signed) AILESBURY.

27.

The form of authorization of Lands:—

MILITARY MANŒUVRES ACT, 187 .

Notice to Landed Propietors, Farmers, and others.

We, the Officer deputed by the Officer in Command of the Forces, and the Consultative Commission, by virtue of the powers conferred upon us by the Military Manœuvres Act, 187 .

Do hereby authorize as Lands on which the Forces may enter, the following enclosed lands:—

Officer deputed by the Officer in Command of the Forces .. _____

Consultative Commissioners .. _____

_____

28.

The form for the authorization of Sources of Water:—

MILITARY MANŒUVRES ACT, 187 .

Notice to Landed Proprietors, Farmers, and others.

We, the Officer deputed by the Officer in Command of the Forces, and the Consultative Commission, by virtue of the powers conferred upon us by the Military Manœuvres Act, 187 .

Do hereby authorize as Sources of Water from which the Forces may supply themselves, the following, viz.:—

Officer deputed by the Officer in Command of the Forces .. _____

Consultative Commissioners .. _____

_____

The Forces may, under the provisions of the said Act, for the purpose of obtaining such supply, dam up any running water, use any private or occupation roads, pass over any authorized enclosed lands, and do all such other acts and things as may be required.

29.

The form of notice published for the information of owners of cattle and sheep, on the approach of the troops:—

MILITARY MANŒUVRES ACT, 187 .

Notice to Owners of Cattle and Sheep.

We, the undersigned, in pursuance of the said Act, do hereby make the following regulations with respect to the protection of cattle and sheep, namely:—

That all occupiers of land and others within the are to enclose their cattle or sheep in yards or folds, or otherwise take efficient steps for placing the same in security from the hour of on the day of to on the day of .

A person neglecting to conform to any regulation made in pursuance of the above Act for the protection of any cattle, sheep, or other property, shall not, after notice has been given him of such regulation, be entitled to claim compensation in respect of any damage caused to such property, in consequence of his having been guilty of such neglect as aforesaid.

Officer deputed by the Officer in Command of the Forces .. _____

Consultative Commissioners .. _____

_____

30.

Form of authorization of place for a Temporary Bridge.

MILITARY MANŒUVRES ACT, 187 .

No.____

By virtue of the powers granted to us by the above Act, we, the Consultative Commission appointed under the Act do hereby authorize _____ as a place at which a temporary bridge may be made.

Dated this_____day of_____187 .

31.

Under Section 6.[1]

The Notices respecting claims for Compensation.

MILITARY MANŒUVRES ACT, 187 .

Claims for Compensation.

Notice is hereby given that Claims for Compensation under the above-named Act are to be sent to the Compensation Officers, as follows:—

1. For so much of the lands comprised within the limits of the said Act, as are situate in the counties of Dorset and Wilts, and are bounded on the north by the River Wily to—

Mr. HARRY JONES,
(Hunt, Stephenson, & Jones),
Crown Hotel,
Blandford,

until Wednesday, September 4th, and from and after that date,

White Hart Hotel,
Salisbury.

2. For so much of the lands as are comprised in the limits of the said Act, as are situate in the county of Wilts, and are bounded on the south by the River Wily, to—

Mr. CHARLES BOVILL SMITH (of Fareham),
Amesbury.

And Notice is hereby further given, that by the 6th Section of the Military Manœuvres Act, 1872, it is provided that "Every claim shall be sent to the Compensation Officers immediately after the "Forces have ceased to occupy or pass over the land, in respect of which compensation is claimed, and at the latest within one week after the damage done."

N.B.—All persons entitled to claim compensation under the Act, may obtain printed forms of claim, upon application to the Compensation Officers.

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[1] See p. 188, *ante*.

32.

MILITARY MANŒUVRES ACT, 1873.

Form of Claim.

*No.*_____ *County of*_____ *Parish of*_____

Name of Farm.	Name and Address of Owner.	Name and Address of Occupier.	Nature of Tenancy. If by Lease, state when same Expires.

Description, whether Arable, Pasture, or Wood Land.	Name and Size of Field.	Quantity in respect of which Claim is made.	Description of Damage.	Date when Damage done.	Amount Claimed.	Remarks.
		A. R. P.			£ s. d.	

33.

Under Section 7.[1]

FORM OF PASS.

Military Manœuvres Act, 187 .

[NOT TRANSFERABLE.

The bearer,_____, is hereby specially permitted to enter upon any unenclosed or authorized enclosed lands, including those directed to be kept clear, or within the lines of any encampment.

KENNETH D. MACKENZIE,
Deputy Quarter-Master-General,
Autumn Manœuvres.

NOTE.—This order may be revoked at any time. The bearer may pass on horse back.

At the back of this pass the following was printed:—

Nothing in this order contained authorizes the bearer to enter upon or interfere with any dwelling-house, farmyard, garden, orchard, pleasure ground, nursery ground, park, or any premises enclosed within the curtilage of or attached to any dwelling-house; or any lands bearing roots or standing crops, or any underwoods, or any enclosed lands, except enclosed lands which may be declared to be lands on which the forces are authorized to enter.

These notices were printed on green cards, the signature being printed, and the card stamped with the Quarter-Master-General's seal.

Form of Licence.	LICENCE.
No._____	_____ is hereby Licensed to
Name_____	accompany the_____ as a
Licensed as_____	_____ under the provisions
To accompany the_____	of the Military Manœuvres Act, 1872.
_____	NOTE.—The person to whom this licence is given is subject to the Mutiny Act and Articles of War.
Date_____	_____ September, 1872.
	NOTE.—This licence is revocable at any time.

34.

Under Section 8.[2]

MILITARY MANŒUVRES ACT, 187 .

Appointment of Metropolitan Constables.

I, one of Her Majesty's Principal Secretaries of State, by virtue of the power for that purpose contained in the Military Manœuvres Act 187 , do hereby, with the consent of A. B., the Commissioner of Police of the Metropolis,

[1] See p. 191, *ante*. [2] See p. 192, *ante*.

and who has the authority to dispose of the services of the Constables, of the Metropolitan Police, including the several Constables hereinafter named, appoint C. D., &c., being respectively Constables of the said Metropolitan Police, to act as Constables within the limits of the said Act.

Given under my hand, this day of August 187 .

(Signed)

35.

Under Section [1]

MILITARY MANŒUVRES ACT, 187 .

I, one of Her Majesty's Principal Secretaries of State, by virtue of the power for that purpose contained in the Military Manœuvres Act 187 , do hereby appoint A. B., &c., one of Her Majesty's Justices of the Peace for the County of and having jurisdiction within part of the limits of the said Act, with his consent, to attend the Forces in the said Act mentioned or referred to, from the day of instant to the day of , both inclusive.

Given under my hand, this day of 187 .

(Signed)

36.

MILITARY MANŒUVRES ACT, 187 .

To a Constable or to any other Constable appointed under the said Act.

* Here insert the Prisoner's name.

† Here the Justice's name.

‡ Here the Witness's name.

§ Here set out the offence as described in Sec. 9 of the Act.

WHEREAS* was this day charged before me† a Special Magistrate appointed by the Secretary of State under the powers contained in the Military Manœuvres Act, 187 , on the oath of‡ [*or in my view*] for that he the said was guilty of an offence against the said Act, viz.: § at being a place where the Forces or a portion of them were exercising or encamping.

These are therefore to command you the said Constable to hold the said and him safely to keep for a period not exceeding six hours from the time of this present hour, viz., of the clock in the ‖

Insert forenoon or afternoon.

Given under my hand and seal this day of 187 .

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[1] See p. 192, *ante*.

ADDENDA.

ADDENDA TO PAGE 33.

(*ss.*) MEMBERS OF THE COMMONS PROHIBITED FROM CONTRACTING FOR PUBLIC SUPPLIES.[1]

For securing the freedom and independence of Parliament the 22 Geo. III., c. 45, enacts as follows:—

After the end of this session, all persons holding contracts, &c., for the public service shall be incapable of being elected or sitting in the House of Commons.

III., c. 1. Any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake, execute, hold or enjoy, in the whole or in part, any contract, agreement or commission made or entered into with, under or from the Treasury, or the Navy or Victualling Office, or with the Ordnance, or with any other person or persons whatsoever, for or on account of the public service, or shall knowingly and willingly furnish or provide in

[1] This Act was passed at the instance of Sir P. J. Clarke, the member for Totness. It was first introduced to the Commons in February[1] 1779, and notwithstanding the opposition of Lord North and a Government contractor (Mr. Alderman Harley), passed the second reading. It was again opposed in Committee and lost. In 1780 it passed through the Commons but was opposed by the Government in the House of Lords, and again lost.[2] In November 1781 it was again stopped on the motion made in the Commons for going into Committee,[3] but in the next year it became law.

The Bill was supported by Mr. Fox[4] and Mr. Whitbread; and the Ministry of Lord Rockingham coming into power, Mr. Burke[5] gave his advocacy to it. Lord Thurlow (who was the Chancellor in both Ministries) opposed the Bill strenuously, but Lord Camden and other Ministers defended it, and gained a majority of 25.[6]

In 1827, Mr. Bish, elected for Leominster, was held to be disqualified under the Act as a contractor for lottery tickets with the Treasury. Mr. Bish's payment was made on the 29th April 1826. The Drawing, first fixed for the 17th May, was postponed until the 18th July. Mr. Bish was elected on the 12th June, and it was contended that the contract was not completed until the final drawing. (Rogers on Election Law, App., p. 1.)

In 1855 the question was raised whether Baron Rothschild, elected member for London (though not sitting, because he could not take the oath, "in the true faith of a Christian"), had incurred any of the penalties of the Act by negociating with the Treasury the Loan of 16,000,000*l.*, raised under the authority of 18 Vic.,[7] cap. 18. The Select Committee,[8] after hearing evidence and Counsel on behalf of Baron Rothschild, reported that there was no contract within the meaning of the Statute.[9] In February 1856, a proposal was made to repeal the Act, but was not received with favour, and therefore was withdrawn.[10]

In 1869,[11] Sir Sydney Waterlow was reported by a Select Committee of the House as "disqualified under the Statute from sitting and voting as a Member of the House," the fact being as follows.—In 1866, he was a Member of a firm who accepted a contract for a supply of stationery until 1872. On the 16th October, 1868, he verbally agreed with his partners to retire from the firm as from the 30th September preceding. On the 19th he was nominated, on the 21st the poll was taken, and on the 23rd was declared elected for Dumfries. On the 26th November he signed the deed of dissolution, and, on November the 27th, the *Gazette* notice of

[1] 20 Parl. Hist., pp. 124-9. [2] 21 *ib.*, pp. 414-458. [3] *Ib.*, 1387. [4] 22 *ib.*, p. 1211.
[5] *Ib.*, 1334. [6] *Ib.*, pp 1377, 1382. [7] 139 H. D (3), 72. [8] *Ib.*, 182.
[9] *Ib.*, 17th July, 1855 (401), Vol. VII., p. 399. [10] 140 H. D. (3), pp. 678-1434.
[11] *Ib.*, 15th March 1869 (78), Vol. VII., p. 253.

pursuance of any such agreement, contract or commission which he or they shall have made or entered into as aforesaid, any money to be remitted abroad or any wares or merchandize to be used or employed in the service of the public, shall be incapable of being elected or of sitting or voting as a member of the House of Commons during the time that he shall execute, hold or enjoy any such contract, agreement or commission or any part or share thereof, or any benefit or emolument arising from the same.

If any member accepts or continues to hold any such contract, &c., after the commencement of the next session, his seat shall be void.

If any person, being a member of the House of Commons, 22 Geo. c. 45, sec shall, directly or indirectly himself or by any other person whatsoever in trust for him or for his use or benefit or on his account enter into, accept of, agree for, undertake or execute, in the whole or in part, any such contract, agreement or

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dissolution was published. On the 2nd December he went to the Comptroller of the Stationery Department to apprize him of his retirement, and to introduce his nephew as the future contractor. From the 30th September his profit, and from the 16th October his interference, ceased. The deed of 26th November had relation back to the agreement of the 16th October, and to the transfer of capital from the 30th September, which was, however, to remain in the business, carrying 5*l.* per cent. interest, repaid by instalments.

Later[1] in the same Session, a question was asked whether the Government did not intend to bring in a Bill to repeal the Act, but the suggestion was not accepted.

The Act has come under the cognizance of the Courts of Law on two occasions, first in 1819, when the Court of Common Pleas[2] held that the supply of regimental clothing to a Colonel did not disqualify the contractor from sitting in Parliament; and again, in 1869, when two states of circumstances arose against the same member, and he was held not to be disqualified.[3]

The facts of the first case were these:—In January, 1868, the firm of which the Member was a partner held a contract to supply the Secretary of State for India with certain articles on demand. The supply was made in October, but it was not paid for until January 1869, the Member having been elected on a nomination on the 16th, a poll on the 17th, and an election on the 18th November 1868. The Court held that the contract having been executed on the part of the contractor, the mere fact of non-payment by the Secretary of State did not occasion a disqualification

The facts of the second case were these:—On the 10th November 1868, the managers of the Broadmoor Asylum, acting under 23 & 24 Vic., cap. 75, sent a demand to the same firm for the delivery of furniture to the asylum, which demand was verbally accepted by the London Agent on the 16th November, and supplied on the 26th November, with an invoice of 7*l.* 11*s.*, which, however, had not been paid by the managers. These facts were not known to the constituency, and no notice was given that the votes recorded for the Member would be thrown away.

The Court held that the Member was not disqualified. There was an entire absence of any notice to the firm that the goods were ordered for or on account of the public service. They were ordered by a person who professed to be an agent for the Broadmoor Asylum, but who said nothing as to the nature of the asylum: and it is found in the case that it was only at a very late period that the firm became aware that the Broadmoor Asylum really was a government establishment. The question therefore is, whether a casual isolated order for goods, which is unknown to the seller to be an order from government, and which is such an order as was only equivalent to a person going into a shop and asking for and buying an article that would be charged to the Treasury, falls within the meaning of the Act.

The view which the Court took is not at all inconsistent with the decisions of the Committees of the House of Commons in the case of Sir Sydney Waterlow and in the Leominster Case,[4] because in both those cases there was at the time of the election something remaining to be done under the contract by the contractors; whereas here the contract was no longer executory.

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[1] 194, H. D. (3), p. 482.
[2] Royse *v.* Birley, 4 L. R. (C. P.), p. 300.
[3] Thompson *v.* Pearce, 1 Bro. & Bing, p. 25.
[4] Rogers on Elections, 10 Ed., App. p. 1.

commission as aforesaid, or if any person, being a member of the House of Commons, and having already entered into any such contract, agreement or commission, or part or share of any such contract, agreement or commission, by himself or by any other person whatsoever in trust for him or for his use or benefit or upon his account, shall, after the commencement of the next session of Parliament continue to hold, execute or enjoy the same or any part thereof, the seat of every such person in the House of Commons shall be and is hereby declared to be void.[1]

22 Geo. III, c. 45, sec. 3. Nothing herein contained shall extend or be construed to extend to any contract, agreement or commission made, entered into or accepted by any incorporated trading company in its corporate capacity, nor to any company now existing or established and consisting of more than ten persons, where such contract, agreement or commission shall be made, entered into or accepted for the general benefit of such incorporation or company.

Not to extend to incorporated trading companies.

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Ibid, sec. 6. Nothing herein contained shall extend or be construed to extend to any person on whom the completion of any contract, agreement or commission shall devolve by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve calendar months after he shall have been in possession of the same.

Not to extend to contracts devolving by descent, &c., until after 12 months' possession.

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Ibid, sec. 9. If any person hereby disabled or declared to be incapable to sit or vote in Parliament shall nevertheless be returned as a member to serve for any county, stewartry, city, borough, town, cinque port or place in Parliament, such election and return are hereby enacted and declared to be void; and if any person disabled and declared incapable by this Act to be elected shall after the end of this present session of Parliament presume to sit or vote as a member of the House of Commons, such person so sitting or voting shall forfeit the sum of 500*l.* for every day in which he shall sit or vote in the said house, to any person or persons who shall sue for the same in any of his Majesty's courts at Westminster, and the money so forfeited shall be recovered by the person or persons so suing with full costs of suit in any of the said courts, by any action of debt, bill, plaint or information, in which no essoin, privilege, protection or wager of law or more than one imparlance shall be allowed; or by summary complaint before the Court of Session in Scotland; and every person against whom any such penalty or forfeiture shall be recovered by virtue of this Act, shall be from thenceforth incapable of taking or holding any contract, agreement or commission for the public service, or any share thereof or any benefit or emolument for the same in any manner whatsoever.

If any person hereby disqualified shall be elected, election shall be void. Disabled persons who shall sit in the House of Commons after this session shall forfeit 500*l.* for each day.

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[1] The War Department has purchased or leased land from members without any regard to the provisions of the Act.

A condition to be inserted in all public contracts that no member of the House of Commons shall have any share thereof.

In every such contract, agreement or commission to be made, entered into or accepted as aforesaid there shall be inserted an express condition that no member of the House of Commons be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom; and that in case any person or persons who hath or have entered into or accepted or who shall enter into or accept any such contract, agreement or commission shall admit any member or members of the House of Commons to any part or share thereof, or to receive any benefit thereby, all and every such person and persons shall for every such offence forfeit and pay the sum of 500*l.*, to be recovered with full costs of suit in any of his Majesty's courts of record at Westminster by any person or persons who shall sue for the same, by any action of debt, bill, plaint or information, in which no essoin, privilege, protection or wager of law or more than one imparlance shall be allowed; or by summary complaint before the Court of Session in Scotland. 22 Geo. I c. 45, sec.

Penalty on contractors who shall admit any member of the House of Commons to any share of their contracts.

Limitation of actions.

No person shall be liable to any forfeiture or penalty inflicted by this Act unless a prosecution shall be commenced within twelve calendar months after such penalty or forfeiture shall be incurred. *Ibid*, sec.

ADDENDA TO PAGE 50.

(*dd.*) AS TO RAILROADS.[1]

The Regulation of the Forces Act,[2] 1871, enacts as follows:—

When Her Majesty, by Order in Council, declares that an emergency has arisen in which it is expedient for the public service that Her Majesty's Government should have control over the railroads in the United Kingdom, or any of them, the Secretary of State may, by warrant under his hand, empower any person or persons named in such warrant to take possession in the name or on behalf of Her Majesty of any railroad in the United Kingdom, and of the plant belonging thereto, or of any part thereof, and may take possession of any plant without taking possession of the railroad itself, and to use the same for Her Majesty's service at such times and in such manner as the Secretary of State may direct; and the directors, officers, and servants of any such railroad shall obey the directions of the Secretary of State as to the user of such railroad or plant as aforesaid for Her Majesty's service.

34 & 35 Vict., c. 86, sec. 16.

Power of Government on occasion of emergency to take possession of railroads.

Any warrant granted by the said Secretary of State in pursuance of this section shall remain in force for one week only, but may be renewed from week to week so long as, in the opinion of the said Secretary of State, the emergency continues.

There shall be paid to any person or body of persons whose railroad or plant may be taken possession of in pursuance of this section, out of moneys to be provided by Parliament, such full compensation for any loss or injury they may have sustained by the exercise of the powers of the Secretary of State under this section as may be agreed upon between the said Secretary of State and the said person or body of persons, or, in case of difference, may be settled by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845."

Where any railroad or plant is taken possession of in the name or on behalf of Her Majesty in pursuance of this section, all contracts and engagements between the person or body of persons whose railroad is so taken possession of, and the directors, officers, and servants of such person or body of persons, or between such person or body of persons and any other persons in relation to the working or maintenance of the

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[1] The Crown holds the telegraph lines in its own hands, but as against Telegraph Companies (if any) the 26 & 27 Vict., c. 112, amended by 29 Vict., c. 3, could be put in force.

[2] As to this power *see* Parliamentary Papers, No. 74, of 27th February 1877.

railroad, or in relation to the supply or working of the plant of such railroad, which would, if such possession had not been taken, have been enforceable by or against the said person or body of persons, shall, during the continuance of such possession be enforceable by or against Her Majesty.

For the purposes of this section "railroad" shall include any tramway, whether worked by animal or mechanical power, or partly in one way and partly in the other, and any stations, works, or accommodation belonging to or required for the working of such railroad or tramway.

"Plant" shall include any engines, rolling stock, horses, or other animal or mechanical power, and all things necessary for the proper working of a railroad or tramway which are not included in the word "railroad."

ADDENDA TO PAGE 154.

ACTS RELATING TO LANDS AT WALTHAM.

III., sc. 3. In 1767, an Act for improving the navigation of the River Lee was passed which authorized (*inter alia*) one other new cut or canal, to be used for the said navigation, leading from the channel of the Lee above King's Weir, over Cheshunt Mill Stream, into the same channel at or near the West Tail Stream of the powder mills near Waltham Abbey; one other new cut or canal, to be used for the said navigation, leading from the said river Lee above Sotheby's Upper Weir, otherwise called Newman's Weir, on the west side thereof, and to run to, and communicate with Enfield Mill Stream, at any distance not more than one hundred yards to the southward of and below the Lock called Enfield Lock.

For the protection of the Mills and Rights now vested in the War Department, these sections were enacted:—

ec. 31. And whereas by means of the lock or turnpike on the said river called Waltham Turnpike, the water of the said river is penned up to such an height, that certain corn mills[1] at Waltham Abbey, the property of the said Sir William Wake and Peter Floyer, and certain gunpowder mills[1] there, the property of Thomas Walton, and Bourchier Walton, Esquires, are supplied with water from the said river; and also certain grounds at Waltham Abbey aforesaid, the property of the said Sir William Wake, and now in the occupation of James Barwick and Mary Farran, widow, calico printers and partners, are supplied with water by flashes from the said turnpike as often as the same is opened for the passage of barges or other vessels up or down the said river; and certain stages are built and made in the said river adjoining to the said calico grounds for washing and cleaning the linens therein: And whereas the said turnpike will not be necessary for the purposes of navigation, after the said new cut from above King's Weir to the west tail stream of the powder mills near Waltham Abbey aforesaid shall have been made and completed; and in case the same is not from time to time kept up and supported, the said corn mills, gunpowder mills, and calico grounds, will not be supplied with water as they have heretofore been: And whereas the said Thomas Walton and Bourchier Walton are owners of a fishery upon part of the said river, as well above as below the said turnpike: Be it therefore further enacted, that the trustees appointed by this Act, shall, from and immediately after the said new cut shall have been made and completed from King's Weir aforesaid, to the west tail stream of the powder mills near Waltham Abbey

Directin when th shall be from Ki Weir to West Ti Stream

[1] These mills are now the property of the War Department.

powder mills near Waltham Abbey, the trustees shall repair and keep in repair Waltham turnpike, and of sufficient height to supply the Corn Mills, the Gunpowder Mills, and Calico Grounds at Waltham, with water.

aforesaid, put the said turnpike in good and sufficient repair, or erect and make some other device in the place and stead thereof, which shall effectually answer the same purpose, for supplying the said corn mills and gunpowder mills with water, as the said turnpike now doth, and shall, from time to time, keep such turnpike or other device of the same perpendicular height as the present turnpike now is, and not lower; and shall, from time to time, well and sufficiently maintain, support, and keep, the said turnpike or other device in good repair, and cause the same to be properly looked after, attended to, and opened, in case of floods, to prevent damage to the country therefrom; which said turnpike or other device shall not, from and after the making of the said new cut, be opened, except in case of floods, for the purpose of better letting out of the same, and except for the purpose of fishing the said river, which may be done from time to time, as the owners of the fishery there shall think fit, not exceeding four times in any year; and also except for the purpose of making such circular hole or bore therein as hereinafter is directed; and in case the said turnpike, or other device to be made in the stead thereof, shall at any time or times thereafter, be in want of repair or amendment, the said trustees shall, on application to be made to their clerk for that purpose, by a notice in writing from the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, any or either of them, their or any or either of their heirs, or assigns, to be given to the said clerk, or left at his usual place of abode, cause the said turnpike or other device to be well and sufficiently repaired and amended within twenty-one days next after such application shall have been made as aforesaid; and in case the said trustees shall not, within the time aforesaid, cause the said turnpike or other device to be well and sufficiently repaired and amended, it shall and may be lawful to and for two Justices of the Peace of the said County of Essex, and they are hereby authorised and required to take a view of the said turnpike or other device, on application to them for that purpose, to be made by the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, any or either of them, their, or any or either of their heirs or assigns, and if, upon such view, the said Justices shall find the said turnpike or other device to be in want of repair or amendment, then the said Justices shall by writing under their hands and seals, certify what repair or amendments are wanting to be made and done to the said turnpike or other device, which certificate shall be delivered to the clerk to the said trustees, or left at his usual place of abode; and in case the said trustees shall not, within twenty-one days next after the said certificate shall be delivered to, or left with, their said clerk aforesaid, cause the said turnpike or other device to be well and sufficiently repaired; then, and in such case, it shall and may be lawful to and for the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, any or either of them, their or any or either of their heirs or assigns, and they are hereby authorised to cause such reparations and

amendments to be made to the said turnpike or other device, as shall be mentioned in the said certificate; and the said trustees shall pay, or cause to be paid, to the person or persons at whose expense the said repairs and amendments shall have been made, all such costs, charges, and expenses, as he or they shall have paid, expended, and been put to on that occasion; such costs, charges, and expenses, to be liquidated by such two Justices as aforesaid, if any dispute shall arise touching the same; and in case of non-payment thereof for the space of ten days next after demand for that purpose made on the collector of the rates and duties hereby directed to be paid and collected at the lock which shall be nearest to the King's Weir aforesaid; it shall and may be lawful to and for the person and persons at whose expense such repairs and amendments shall have been made as aforesaid, to receive all and every the rates and duties hereby directed to be collected and paid at the said lock, until he and they shall have reimbursed himself and themselves of all such costs, charges, and expenses, as he or they shall have been put to in making such repairs and amendments as aforesaid; and the said trustees shall cause the said turnpike or other device to be well and sufficiently looked after and attended for the purposes hereinbefore and hereinafter mentioned, and in case the person who shall be appointed for that purpose shall not look after and attend the same in a proper manner, then and in such case, after due information given thereof, and the particular causes of complaint specified in writing, subscribed by the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, any or either of them, their or any of their heirs and assigns, and deliver to the clerk to the said trustees, or left at his usual place of abode, it shall and may be lawful to and for the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, any or either of them, their or any or either of their heirs or assigns, to cause the said turnpike or other device to be well and sufficiently looked after, and attended by some person or persons to be by them, any or either of them, appointed for that purpose, and the said trustees shall pay to the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, their heirs or assigns, such sum or sums as they, any or either of them, shall pay to any person or persons for looking after and attending the said turnpike or other device, and in case any difference shall arise between the said trustees and the said Sir William Wake, Peter Floyer, Thomas Walton, and Bourchier Walton, their heirs or assigns, touching the amount or reasonableness of the sum or sums so paid for looking after and attending the said turnpike or other device, the same shall be settled by two Justices of the Peace for the said County of Essex, whose determination therein shall be final.

A bore to be made in Waltham turnpike for providing a constant

7 Geo. III., c. 51, sec. 32.

And for the providing a constant and regular draught or current of water down the said river from the said turnpike or other device to be erected in the stead thereof, for the carrying on the trade and business at the said calico grounds, be it further enacted, that the said trustees shall, immediately after the said

Supply of water down the river to the Calico Grounds at Waltham.

new cut shall have been made from King's Weir aforesaid to the west tail stream of the said powder mills near Waltham Abbey aforesaid, cause to be cut and made in the said turnpike or other device to be erected in the stead thereof, a circular hole or bore six inches diameter, for a constant passage of water through the same, and to fix thereupon a brass or copper plate, not exceeding one quarter of an inch in thickness, with the like circular hole or bore therein, the centre of which circular hole or bore shall be cut and made two feet below the top or gauge height of the said turnpike or other device to be erected in the stead thereof, and shall from time to time continue, maintain, and keep such circular hole or bore in the said turnpike or other device for the purpose aforesaid, and in case the said trustees shall neglect or refuse to have such circular hole or bore cut and made in the said turnpike or other device, or such brass or copper plate fixed thereupon as aforesaid, within two days next after the said new cut shall have been made from King's Weir aforesaid, to the west tail stream of the powder mills near Waltham Abbey aforesaid, or shall at any time thereafter neglect or refuse to continue the same therein, then and in either of the said cases it shall and may be lawful to and for the said Sir William Wake, his heirs or assigns, and he and they is and are hereby authorised to cut and make in the said turnpike or other device, such circular hole or bore, and to fix thereupon such brass or copper plate as aforesaid, and from time to time to continue the same, and the said trustees shall, on notice to be for that purpose given to their clerk in writing, pay or cause to be paid to the said Sir William Wake, his heirs or assigns, all such costs, charges, and expenses as he or they shall have been put unto in making such circular hole or bore and fixing such brass or copper plate thereon as aforesaid, and in case any difference shall arise between the said trustees and the said Sir William Wake, his heirs or assigns, touching the amount or reasonableness or the sum or sums of money so paid as aforesaid, the quantum thereof shall be settled and adjusted by two Justices of the Peace for the said County of Essex, whose determination therein shall be final.

Sir William Wake and his tenants may contract the current of the river opposite the Calico Grounds at Waltham.

And for the further and better supplying the said James Barwick and Mary Farran, and all succeeding tenants of the said calico grounds with water for washing the linens in the said river in the same manner as is now done, and for strengthening the current of water there, be it further enacted, that it shall and may be lawful to and for the said Sir William Wake, his heirs and assigns, and his and their tenants of the said calico grounds, and he and they is and are hereby authorised to contract the present current of the said river opposite the said grounds to the width of nine feet clear water way, and for that purpose to drive and fix in the said river planks or pieces of timber, in order to form a barrier therein, provided such barrier shall not be raised more than four inches above the surface of the water in dry seasons, to the end the water may at all other seasons run over the said barrier, and

7 Geo. 1 c. 51, sec

from time to time to continue, keep up, and maintain such
34. barrier in manner and for the purpose aforesaid.

And whereas it appears by a survey of the mill stream belonging to the said corn mills at Waltham Abbey aforesaid, made under the direction of the said trustees, that a much greater quantity of water will pass down the said mill stream when the said new cut from above King's Weir aforesaid to the west tail stream of the powder mills near Waltham Abbey aforesaid shall have been made than now done; be it further enacted, that from and immediately after the said new cut shall have been made and completed, it shall and may be lawful to and for the tenants and occupiers of the said grounds, now in the occupation of the said James Barwick and Mary Farran, and all succeeding tenants of the said grounds, and they are hereby authorised from time to time to take a sufficient quantity of water out of the said mill stream for filling the cuts or canals made, and to be made in the said calico grounds, or any other grounds adjoining thereunto, now belonging to the said Sir William Wake, and for that purpose it shall and may be lawful to and for the said Sir William Wake, his heirs, tenants, or assigns, or his or their workmen, and they are hereby authorised to drive and fix in the said mill stream a pile, and to cut and make in the said pile a circular hole or bore not exceeding two inches and five-sixteenth parts of a inch in diameter for the constant passage of water out of the said mill stream into the said cuts or canals made, or to be made in the said calico grounds, or any other grounds adjoining thereunto, now belonging to the said Sir William Wake, and to place and fix upon the said pile a brass or copper plate not exceeding one quarter of an inch in thickness, with such circular hole or bore therein as aforesaid, the centre of which said circular hole or bore shall be placed two feet below the common and ordinary mark of full-a-head at the said mill, and from time to time to continue the same in the manner and for the purpose aforesaid; and the tenant or occupier of the said corn mills at Waltham Abbey aforesaid shall not at any time or times thereafter wilfully do any act, matter, or thing, to prevent a full and free passage of water out of the said mill stream through the said circular hole or bore into the said cuts or canals, made or to be made in the said calico grounds or any other grounds adjoining thereunto, now belonging to the said Sir William Wake.

Calico Grounds at Waltham to be supplied with watar from Waltham Abbey Corn Mill stream.

35. And whereas the mill stream from the tail of the said gunpowder mills belonging to the said Thomas and Bourchier Walton is navigable to the present channel of the River Lee, which channel from the end of the said mill stream to the place where the said new cut to be made from King's Weir will communicate with the said River Lee, near the said west mill stream, will be disused for common navigation after the said new cut is made, but it is necessary that the same should be preserved in a navigable state for the benefit of the said mills; be it therefore further enacted, that nothing herein contained shall enable the said trustees for the said navigation to do any act, matter,

Navigation to Messrs.

Walton's Gunpowder Mills to be preserved.

or thing whatsoever, whereby the navigation of the said River Lee, in its present course or channel from the said mill stream to the common channel of the said river where the said new navigation shall be carried on, shall or may be destroyed or injured; but that on the contrary the said trustees shall and will cleanse, preserve, and maintain the same in a proper and effectual manner, that there may always be as good a navigation to and from the said mills as there now is.

Owners of gunpowder mills not to supply water.

Provided always, and be it further enacted and declared, that nothing herein contained shall extend, or be constructed 7 Geo. I to extend, to oblige the owners, lessees, tenants, or occupiers, c. 51, sec of the gunpowder mills at Waltham Holy Cross, in the County of Essex, to draw up or open, or shut or put down, any clough or cloughs of their sluices for the purpose of doing or executing any of the works in pursuance of this Act.

Rights of the owner of the fishery above and below Enfield mill saved.

Provided always, and be it further enacted and declared, that nothing contained in this Act shall tend to prejudice the right *Ibid*, se of the owner or owners of the said Enfield Mill Stream to the fishery, both above and below the said mills; and from and after the said new cut or canal to the eastward of the said mills shall be made, the owner or owners of the said mill stream shall and may have and enjoy the benefit of the fishery in such new cut or canal and in the said mill stream, in the same manner as they now are entitled to, and exercise and enjoy the right of fishery therein; anything herein contained to the contrary thereof in any wise notwithstanding; but such right shall be so exercised as not to interfere with, or interrupt the execution of this Act, or the free use of the said navigation.

Navigation to be free.

And be it enacted, that the said navigation shall from henceforth be a free navigation, and that all the king's liege *Ibid*, s people whomsoever shall, and may have and lawfully enjoy free passage along, in, through, and upon the channel of the said river, and such new cuts and canals as aforesaid, with and for boats, barges, lighters, and other vessels, and also the use of the towing or haling-paths, and all other necessary and convenient liberties for navigating the same, without any let, hindrance, or obstruction, from any person or persons whomsoever, subject nevertheless to the payment of such rates and duties as by the tenor and true meaning of this Act, are or ought to be paid to the said trustees or such person or persons as they, or any seven or more of them, shall appoint to collect the same, and also subject to the orders and bye-laws which shall be from time to time made by the said trustees, or ony seven or more of them, for the regulation of the said navigation.

Penalty on persons opening locks, &c.

And be it further enacted, that if any person shall maliciously open, or cause to be opened, any locks or cloughs *Ibid*, belonging to the said navigation, or shall leave any of the cloughs running after any boat, barge, lighter, or other vessel shall have passed any lock belonging to the said navigation, or shall draw, or cause to be drawn, any clough in the lock gates on such navigation, so as to misspend or waste the water to the prejudice of the said navigation or of any mills or lands; every

such person for every such offence shall forfeit and pay any sum not exceeding five pounds.

II., c. 108. Provided always, and be it further enacted, that it shall and may be lawful for the owners and occupiers of any lands or tenements adjoining to the said river or streams, or cuts or canals, or any of them, to use any pleasure boat or boats upon the same, without the hindrance or interruption of the said trustees, or any of them, and without paying any of the rates and duties aforesaid, so as such pleasure boat or boats is or are not used for carrying goods, wares, or merchandises, and so as such pleasure boat do not pass through any of the places for the passing whereof any rates and duties are hereinbefore directed to be paid; and that the lord or lords of the respective manors, or any other persons whomsoever, shall have full liberty to fish, fowl, and exercise all other royalties on the said river and navigable passages to which they are now legally entitled; anything herein contained to the contrary notwithstanding, so that the exercise of such rights and royalties shall not interfere with or interrupt the execution of this Act, or the free use of the said navigation.

Pleasure b not to be taxed, &c.

Lords of manor ma fish, fowl, as heretof

On 31st July 1868, "An Act to make better provision for the preservation and improvement of the River Lee and its tributaries, and for other purposes," was passed, which contained this enactment:—

Vict., ec. 91, P.) From and after the establishment of the Conservancy Board, it shall not be lawful for any person to do any of the following things:—

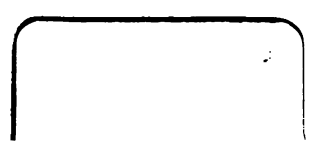
Sewage, & prohibited from bein newly sen into Lee o tributaries

(1.) To open into the Lee or any of its tributaries any sewer, drain, pipe, or channel, with intent or in order thereby to provide for the flow or passage of sewage or other offensive or injurious matter:

(2.) To cause, or without lawful excuse (proof whereof shall lie on the person accused) to suffer, any sewage or other offensive or injurious matter to flow or pass into the Lee or any of its tributaries, down or through any sewer, drain, pipe, or channel not used for that purpose before the establishment of the Board:

(3.) To open into any cut, dock, canal, ditch, or channel communicating with the Lee or any of its tributaries, any sewer, drain, pipe, or channel, with intent or in order thereby to provide for the flow or passage of sewage or other offensive or injurious matter in such manner that the same will be carried or be likely to be carried by, through, or out of that cut, dock, canal, ditch, or channel into the Lee or any of its tributaries:

(4.) To cause, or without lawful excuse (proof whereof shall lie on the person accused) to suffer any sewage or other offensive or injurious matter to flow or pass into any such cut, dock, canal, ditch

or channel, down or through any sewer, drain, pipe, or channel not used for that purpose before the establishment of the Board, in such manner that the same will be carried or be likely to be carried by, through, or out of that cut, dock, canal, ditch, or channel into the Lee or any of its tributaries.

If any person does anything in contravention of this section, he shall for every such offence be liable, on summary conviction, to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding fifty pounds for every day on which the offence is continued after the day on which he becomes liable to the first penalty; and after such conviction, the Board may stop up the outlet of the sewer, drain, pipe, or channel in respect of which the offence is committed, and for that purpose may do all works that appear to them requisite, and may enter on any lands; and the Board may recover from the person offending all expenses incurred by them in so doing with costs.